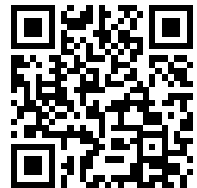
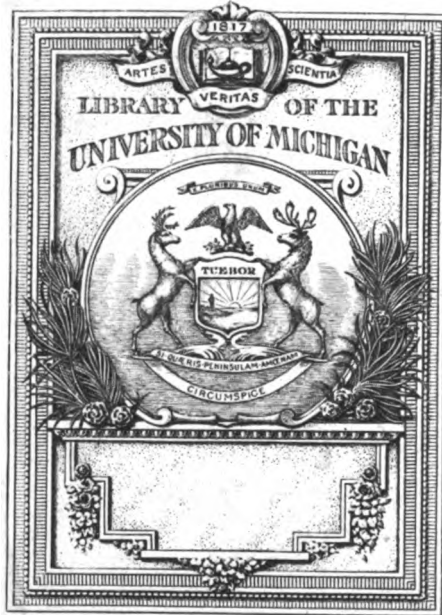

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THE
PUBLIC GENERAL ACTS
and the
Church Assembly Measures
of
1948

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

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

King George The Sixth

with

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

[IN TWO VOLUMES]

VOLUME I

Public General Acts, 11 & 12 Geo. 6, Chapters 14 to 49



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THE
PUBLIC GENERAL STATUTES.

11 & 12 GEO. 6.

CHAPTER 14.

An Act to make provision for the payment of certain annuities to Their Royal Highnesses the Princess Elizabeth and the Duke of Edinburgh, and to amend section eight of the Civil List Act, 1937.

[11th February 1948.]

Most Gracious Sovereign,

WHEREAS Your Majesty has been graciously pleased to signify to your faithful Commons in Parliament assembled Your Majesty's desire that provision should be made for Their Royal Highnesses the Princess Elizabeth and the Duke of Edinburgh on the occasion of their marriage :

And whereas Your Majesty has further been graciously pleased to signify that, being anxious that such provision should be made in such a way as not to impose a burden on your people at this present time when they are faced with grave economic difficulties, Your Majesty was willing to place at the disposal of Your faithful Commons a sum derived from the savings on the Civil List made during the war years, with the intent that such provision should, for a period, impose no additional charge on public funds, and that Your Majesty has, to that end, commanded that a sum of one hundred thousand pounds so derived be transferred to the Consolidated Fund on the passing of this Act :

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

1.—(1) There shall be paid to Her Royal Highness the Princess Elizabeth during her life the yearly sum of twenty-five thousand pounds, to commence from the day of her marriage with His Royal Highness the Duke of Edinburgh.

Provision for
Her Royal
Highness the
Princess
Elizabeth.

A

(2) The yearly sum payable to Her Royal Highness under this section shall be in addition to any sum payable to her under the Civil List Act, 1937.

1 Edw. 8. &
1 Geo. 6. c. 32.

Provision for
His Royal
Highness the
Duke of
Edinburgh.

2.—(1) There shall be paid to His Royal Highness the Duke of Edinburgh during his life the yearly sum of ten thousand pounds, to commence from the said day.

(2) In the event of Her Royal Highness the Princess Elizabeth dying in the lifetime of His Royal Highness the Duke of Edinburgh leaving a child or children, there shall be paid to His Royal Highness during any period after Her Royal Highness's death during which he is living and their child or one of their children is Heir Presumptive to the Throne the yearly sum of fifteen thousand pounds.

(3) Any yearly sum payable to His Royal Highness under subsection (2) of this section shall be in addition to the yearly sum payable to him under subsection (1) thereof.

Charge of pay-
ments under
this Act.

3. The yearly sums payable under this Act shall be charged on and paid out of the Consolidated Fund or the growing produce thereof, and shall be paid at such times and in such manner as the Treasury may direct.

Amendment of
s. 8 of the
Civil List
Act, 1937.

4. Section eight of the Civil List Act, 1937 (which enacts that, in the event of Her Royal Highness the Princess Elizabeth predeceasing His Majesty, that Act is to have effect, as respects any period subsequent to that event, as if the references to Her Royal Highness were references to that one of His Majesty's daughters who thereby becomes his eldest surviving daughter) shall apply only as respects any such period during which that one of His Majesty's daughters is Heir Presumptive to the Throne.

Title.

5. This Act may be cited as the Princess Elizabeth's and Duke of Edinburgh's Annuities Act, 1948.



CHAPTER 15.

Overseas Resources Development Act, 1948.

ARRANGEMENT OF SECTIONS.

Colonial Development Corporation.

Section.

1. Establishment of Colonial Development Corporation, and functions thereof.
2. Constitution of Colonial Development Corporation.

Overseas Food Corporation.

3. Establishment of Overseas Food Corporation, and functions thereof.
4. Constitution of Overseas Food Corporation.
5. Transfer to the Overseas Food Corporation of assets and liabilities of the Minister of Food relating to groundnuts production.

Application of subsequent provisions to each of the said Corporations.

6. Application of subsequent provisions to each of the said Corporations.

Provisions as to exercise of functions.

7. Local interests to be consulted.
8. Interests of employees to be consulted.
9. Powers of the responsible Minister.
10. Disposal of capital assets.

Financial provisions.

11. Borrowing powers.
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13. Repayment of, and interest on, advances and sums issued to meet guarantees.
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Interpretation and Short Title.

19. Interpretation.
20. Short title.

SCHEDULE.—Provisions relating to the constitution, etc., of each of the Corporations.

An Act to provide for the establishment of a Colonial Development Corporation charged with duties for securing development in colonial territories, and for the establishment of an Overseas Food Corporation charged with duties for securing the production or processing of foodstuffs or other products in places outside the United Kingdom, and the marketing thereof, and for matters connected therewith.

[11th February 1948.]

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 :—

Colonial Development Corporation.

Establishment
of Colonial
Development
Corporation,
and functions
thereof.

1.—(1) There shall be established in accordance with this Act a body, to be called the Colonial Development Corporation, charged with the duty of securing the investigation, formulation and carrying out of projects for developing resources of colonial territories with a view to the expansion of production therein of foodstuffs and raw materials, or for other agricultural, industrial or trade development therein.

(2) The said Corporation shall have power, for the purpose of the discharge of their duty under the preceding subsection,—

- (a) to carry on all activities the carrying on whereof appears to them to be requisite, advantageous or convenient for or in connection with the discharge of their said duty, including the processing and marketing of products ;
- (b) to promote the carrying on of any such activities by other bodies or persons, and for that purpose to establish or expand, or promote the establishment or expansion of, other bodies to carry on any such activities either under the control or partial control of the Corporation or independently, and to give assistance to such bodies or to other bodies or persons appearing to the Corporation to have facilities for the carrying on of any such activities, including financial assistance by the taking up of share or loan capital or by grant, loan or otherwise ;
- (c) to carry on any such activities in association with other bodies or persons (including Government authorities), or as managing agents or otherwise on their behalf.

Constitution
of Colonial
Development
Corporation.

2.—(1) The Colonial Development Corporation shall consist of a chairman, a deputy chairman and such number of other members, not being less than four or more than ten, as the Secretary of State may from time to time determine.

(2) The chairman, the deputy chairman and the other members of the said Corporation shall be appointed by the Secretary of State from amongst persons appearing to him to be qualified as having had experience of, and having shown capacity in, matters relating to primary production, industry or trade, finance, science, administration, organisation of workers or welfare, and in making such appointments the Secretary of State shall have particular regard to the need for securing that adequate experience of those matters obtained in colonial territories is at the disposal of the Corporation.

(3) The provisions of the Schedule to this Act shall have effect with respect to the said Corporation.

Overseas Food Corporation.

3.—(1) There shall be established in accordance with this Act a body, to be called the Overseas Food Corporation, charged with the duty of—

Establishment of Overseas Food Corporation, and functions thereof.

- (a) securing the investigation, formulation and carrying out of projects for production or processing in places outside the United Kingdom of foodstuffs or agricultural products other than foodstuffs, and for the marketing of foodstuffs or such products ; and
- (b) as the first project to be carried out by them, securing the large-scale production of groundnuts, together with crops rotational therewith or ancillary thereto, in colonial territories in East and Central Africa, and the marketing thereof :

Provided that the Corporation shall not take in hand for the purpose of the discharge of their duty under paragraph (a) of this subsection the investigation, formulation or carrying out of a project to be carried out in a colonial territory unless the Secretary of State has invited them so to do.

(2) The said Corporation shall, for the purpose of the discharge of their duty under the preceding subsection, have power to carry on all activities the carrying on whereof appears to them to be requisite, advantageous or convenient for or in connection with the discharge of their said duty, and the like powers as are conferred on the Colonial Development Corporation by paragraphs (b) and (c) of subsection (2) of section one of this Act for the purpose of the discharge of the duty of that Corporation under subsection (1) of that section.

4.—(1) The Overseas Food Corporation shall consist of a chairman, a deputy chairman and such number of other members, not being less than four or more than ten, as the Minister of Food may from time to time determine.

Constitution of Overseas Food Corporation.

(2) The chairman, the deputy chairman and the other members of the said Corporation shall be appointed by the said Minister from amongst persons appearing to him to be qualified as having had experience of, and having shown capacity in, such matters as are referred to in subsection (2) of section two of this Act in relation to the appointment of members of the Colonial Development Corporation.

(3) The provisions of the Schedule to this Act shall have effect with respect to the Overseas Food Corporation.

Transfer to
the Overseas
Food
Corporation
of assets and
liabilities of
the Minister
of Food
relating to
groundnuts
production.

5.—(1) On a day to be appointed by the Minister of Food (in this section referred to as "the transfer date") there shall vest in the Overseas Food Corporation, by virtue of this section and without further assurance,—

- (a) all property vested in the said Minister immediately before the transfer date for the purposes only of arrangements which have been made by him for starting the production of groundnuts as mentioned in subsection (1) of section three of this Act or other activities such as are to fall within the functions of the Corporation; and
- (b) all rights and liabilities of the said Minister then subsisting under contracts entered into by him or on his behalf for such purposes only;

and on and after the transfer date any such contract shall have effect as if the Corporation had been a party thereto instead of the said Minister, or, in the case of a contract entered into by another person as agent for him, instead of that other person, and any proceeding or cause of action pending immediately before the transfer date by or against the said Minister in respect of any such property or contract may be continued and enforced by or against the Corporation.

(2) If, by reason of the situation outside the United Kingdom of any such property or of the application to any such contract, as the proper law thereof, of the law of any country outside the United Kingdom or for any other cause, a vesting provided for by this section is not fully effectual or the Corporation are not in a position to enforce rights under such a contract, the said Minister shall give to the Corporation such assistance in that behalf, whether by executing an assurance of the property or an assignment of the contract or himself taking steps to enforce it or otherwise, as it appears to him to be in his power to give.

(3) The Corporation shall pay to the said Minister at such time or times as he may direct a sum or sums equal in the aggregate to the aggregate of all expenses incurred by him in making or giving effect to the arrangements aforesaid less the aggregate of any receipts of his attributable to giving effect thereto, and shall indemnify him against any expense which he may incur by

virtue of the last preceding subsection or in discharging any liability of his in respect of any such property or contract as aforesaid.

(4) As between the said Minister and the Corporation the said Minister shall have power to determine any question arising in giving effect to the provisions of this section—

- (a) as to any property vested in him or contract entered into by him or on his behalf, whether it was so vested or entered into for purposes mentioned in subsection (1) of this section only, or
- (b) as to any expenses or receipts of his, whether they were incurred or attributable as mentioned in the last preceding subsection or what was the amount thereof.

(5) Sums received by the said Minister under this section shall be paid into the Exchequer.

Application of subsequent provisions to each of the said Corporations.

6.—(1) The provisions of the subsequent sections of this Act and of the Schedule thereto shall apply, subject as therein expressly mentioned, to each of the said Corporations. Application of subsequent provisions to each of the said Corporations.

(2) In the said provisions of this Act the expression "the responsible Minister" means, in relation to the Colonial Development Corporation, the Secretary of State, and, in relation to the Overseas Food Corporation, the Minister of Food. said Corporations.

Provisions as to exercise of functions.

7.—(1) In determining their policy as to the activities to be carried on by them in any territory and the manner in which they are to be carried on, and as to assisting or participating in the carrying on by others of activities in any territory, the Corporation shall have particular regard to the interests of the inhabitants of the territory, and shall appoint committees charged with the duty of studying and keeping the Corporation informed as to the circumstances and requirements of the inhabitants in cases in which the appointment of such a committee appears to the Corporation to be needed for the proper discharge of the duty imposed on them by this subsection. Local interests to be consulted.

A committee appointed for the purposes of this subsection shall, unless it appears to the Corporation to be impracticable, include persons having knowledge of the circumstances and requirements of the inhabitants of the territory obtained by their being or having been themselves inhabitants thereof or residents therein.

(2) The Corporation shall not establish, or assist or participate in the establishment of, a new undertaking in any territory until such measures for consultation with the Government of the

territory as appear to the responsible Minister to be appropriate have been taken.

Interests of employees to be consulted.

8.—(1) The Corporation shall take all practicable steps to secure—

- (a) the safety, health and welfare of persons in their employment or in the employment of others in activities carried on with the assistance of the Corporation or in association with them ; and
- (b) the benefit of practical knowledge and experience of such persons in the organisation and conduct of the activities in which they are employed.

(2) In the performance of their duty under the preceding subsection, and in dealing with matters affecting terms or conditions of employment, the Corporation shall seek consultation—

- (a) with persons or bodies appearing to them to represent, or to have qualifications to speak on behalf of, substantial numbers of the employees affected ;
- (b) where the matter in question arises in connection with the carrying on of activities in a colonial territory, with the Government of the territory.

Powers of the responsible Minister.

9.—(1) The responsible Minister may, after consultation with the Corporation, give to them directions of a general character as to the exercise and performance of their functions in relation to matters appearing to him to concern the public interest, and the Corporation shall give effect to any such directions.

(2) The Corporation shall as soon as possible after the end of each financial year of the Corporation make a full report to the responsible Minister on the exercise and performance by them of their functions during that year, and he shall lay a copy thereof before each House of Parliament.

(3) The report for any year shall set out any direction given to the Corporation under subsection (1) of this section during that year, unless the responsible Minister has notified to the Corporation his opinion that it is against the interests of national security so to do.

(4) The Corporation shall furnish to the responsible Minister such information and returns relating to the property or activities or proposed activities of the Corporation or of others by whom activities are carried on or are proposed to be carried on with their assistance or in association with them (being information which is in the possession of the Corporation or can be obtained by them with reasonable facility or being returns giving such information) as the responsible Minister may from time to time require, and

shall afford to him facilities for the verification of information furnished by them in such manner and at such times as he may require.

10. The power of the responsible Minister to give directions to the Corporation shall extend to the giving to them of directions— Disposal of capital assets.

(a) as to the disposal of capital assets, or

(b) as to the application of proceeds of such disposals,

notwithstanding that the directions may be of a specific character :

Provided that directions as to the application of proceeds of disposal shall be given by the responsible Minister with the approval of the Treasury.

Financial provisions.

11.—(1) Subject to the provisions of this section, the Corporation may borrow sums required by them for meeting any of their obligations or discharging any of their functions. Borrowing powers.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the responsible Minister, given with the consent of the Treasury, as to amount (within the maximum specified in the next succeeding subsection), as to the sources of the borrowing and as to the terms on which the borrowing may be effected.

An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(3) The Corporation shall not borrow so as to have outstanding at any time—

(a) in respect of sums borrowed temporarily, by way of overdraft or otherwise, an aggregate amount exceeding ten million pounds in the case of the Colonial Development Corporation or five million pounds in the case of the Overseas Food Corporation ; or

(b) in respect of sums borrowed otherwise (whether by way of advance from the responsible Minister under the next succeeding section or from other sources) an aggregate amount exceeding one hundred million pounds in the case of the Colonial Development Corporation or fifty million pounds in the case of the Overseas Food Corporation.

(4) A person lending money to the Corporation shall not be bound to inquire whether the borrowing of money is within the power of the Corporation.

A*

Advances, and
guarantee of
borrowings,
by the
Government
of the U.K.

12.—(1) For the purpose of enabling the Corporation to defray expenditure properly chargeable to capital account, including defraying initial expenses and provision of working capital, the responsible Minister may, with the consent of the Treasury, make advances to the Corporation up to amounts such that the aggregate outstanding at any time in respect of the advances shall not exceed one hundred million pounds in the case of the Colonial Development Corporation or fifty million pounds in the case of the Overseas Food Corporation.

(2) The Treasury may guarantee, in such manner and on such conditions as they think fit, the payment of the principal of and interest on any authorised borrowings of the Corporation made otherwise than by way of advance under the preceding subsection.

(3) Immediately after any guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament.

(4) Where any sum is issued for fulfilling such a guarantee, the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.

Repayment of,
and interest
on, advances
and sums
issued to meet
guarantees.

13.—(1) The Corporation shall make to the responsible Minister, at such times and in such manner as he may with the approval of the Treasury direct, payments of such amounts as he may so direct in or towards repayment of advances made to the Corporation under the last preceding section, and of any sums issued in fulfilment of any guarantee given thereunder, and payments of interest on what is outstanding for the time being in respect of such advances and of any sums so issued at such rate as he may so direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

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

Reserve fund.

14.—(1) The Corporation shall establish a reserve fund.

(2) The management of the said fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Corporation may determine :

Provided that—

(a) no part of the said fund shall be applied otherwise than for the purposes of the Corporation ; and

- (b) the power of the responsible Minister to give directions to the Corporation shall extend to the giving to them, with the approval of the Treasury, of directions as to any matter relating to the establishment or management of the said fund, the carrying of sums to the credit thereof, or the application thereof, notwithstanding that the directions may be of a specific character.

15.—(1) It shall be the duty of the Corporation so to exercise and perform their functions as to secure that their revenues are not less than sufficient to meet all sums properly chargeable to their revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under the two last preceding sections), taking one year with another.

Balancing of
revenue
account, and
surplus
revenue.

(2) Any excess of the revenues of the Corporation for any financial year thereof over the sums properly chargeable to their revenue account for that year (including as aforesaid) shall be applied by the Corporation for such purposes as they may determine with the approval of the responsible Minister given with the consent of the Treasury.

16.—(1) The Corporation shall keep proper accounts and each financial year of the Corporation a statement of accounts in such form as the responsible Minister may with the approval of the Treasury direct, being a form which shall conform with the best commercial standards.

Accounts and
audit.

(2) The form of the accounts and of the statement shall be such as to secure the provision of separate information as respects each of the main activities of the Corporation.

(3) The accounts of the Corporation shall be audited by auditors to be appointed annually by the responsible Minister :

Provided that no person shall be qualified to be so appointed unless he is a member of one or more of the following bodies :—

The Institute of Chartered Accountants in England and Wales ;

The Society of Incorporated Accountants and Auditors ;

The Society of Accountants in Edinburgh ;

The Institute of Accountants and Actuaries in Glasgow ;

The Society of Accountants in Aberdeen ;

The Association of Certified and Corporate Accountants, Limited ;

The Institute of Chartered Accountants in Ireland.

(4) So soon as the accounts of the Corporation for any financial year thereof have been audited, they shall send a copy of the

statement of accounts prepared in respect of that year to the responsible Minister together with a copy of any report made by the auditors on the statement or on the accounts.

(5) The responsible Minister shall lay a copy of every such statement and report before each House of Parliament.

Issues out
of the
Consolidated
Fund.

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

(2) Any sums required by the Treasury for fulfilling any guarantee under this Act of borrowings of the Corporation shall be charged on and issued out of the Consolidated Fund or the growing produce thereof.

(3) For the purpose of providing sums or any part of sums, to be issued under this section, 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 be created and issued under that Act.

2 & 3 Geo. 6.
c. 117.

Accounting
for receipts
of the
responsible
Minister.

18.—(1) Sums received by the responsible Minister under section thirteen of this Act shall be paid into the Exchequer, and shall be issued out of the Consolidated Fund or the growing produce thereof at such times as the Treasury may direct and 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.

(2) The responsible Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to him under subsection (1) of the last preceding section and of sums received by him under section thirteen of this Act, and of the disposal by him of those sums respectively.

(3) Any account prepared under this section shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be 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.

*Interpretation and Short Title.***19. In this Act—**

Interpretation.

- (a) the expression "colonial territory" means a territory to which section one of the Colonial Development and Welfare Act, 1940, applies at the commencement of this Act; and 3 & 4 Geo. 6.
c. 40.
- (b) references to agriculture include references to fisheries and to the livestock industry.

20. This Act may be cited as the Overseas Resources Short title. Development Act, 1948.

SCHEDULE.

PROVISIONS RELATING TO THE CONSTITUTION, ETC. OF EACH OF THE Sections
2, 4, and 6.
CORPORATIONS.

1. The Corporation shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

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

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

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

and, subject to the provisions of any such regulations as aforesaid, the Corporation shall have power to regulate their own procedure (including the manner in which matters subject to the determination of the Corporation are to be determined by or on behalf of the Corporation).

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

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

5. The Corporation shall—

- (a) pay to each member of the Corporation, in respect of his office as such, such remuneration and allowances as may be determined by the responsible Minister with the consent of the Treasury, and to the chairman and to the deputy chairman, in respect of his office as such, such remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as may be so determined ; and
- (b) as regards any member in whose case it may be determined by the responsible Minister with the consent of the Treasury to make provision for the payment on his death or retirement of a pension, gratuity, or other like benefit, pay, or provide for the payment of, such pension, gratuity or other like benefit to him or to others by reference to his service as may be so determined.

6. If any member of the Corporation, other than the chairman or the deputy chairman, is employed about the affairs of the Corporation otherwise than as a member thereof, the Corporation may pay to that member such remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as the Corporation may determine.

7. The Corporation shall—

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

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

9. The Corporation shall have power to do any thing and to enter into any transaction (whether or not involving expenditure, borrowing in accordance with the provisions of this Act in that behalf, lending or investment of money, the acquisition of any property or rights, or, subject to the provisions of section ten of this Act, the disposal of any property or rights) which in their opinion is calculated to facilitate the proper discharge of their functions or is incidental or conducive thereto.

10. It is hereby declared that nothing in this Act exempts the Corporation from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local.

CHAPTER 16.

An Act to provide for raising further money for the development of the postal, telegraphic and telephonic systems and the repayment to the Post Office Fund of money applied thereout for such development.

[19th February 1948.]

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) Without prejudice to the exercise of any powers previously given for the like purpose, the Treasury may issue out of the Consolidated Fund of the United Kingdom or the growing produce thereof (hereafter in this Act referred to as "the Consolidated Fund") such sums, not exceeding in the whole the sum of seventy-five million pounds, as may be required by the Postmaster-General for developing, according to estimates approved by the Treasury, the postal, telegraphic and telephonic systems, or for repaying to the Post Office Fund any moneys which may have been applied thereout for that purpose.

Grant for development of postal, telegraphic and telephonic systems.

(2) The Treasury may, if they think fit, for the purpose of providing money for sums so authorised to be issued out of the Consolidated Fund, or for repaying to that fund all or any part of the sums so issued, borrow by means of terminable annuities for a term not exceeding twenty years, and all sums so borrowed shall be paid into the Exchequer.

(3) The said annuities shall be paid out of moneys provided by Parliament for the service of the Post Office, and if those moneys are insufficient shall be charged on and paid out of the Consolidated Fund.

(4) Section five of the Telephone Transfer Act, 1911 (which ^{1 & 2 Geo. 5} relates to audit), shall have effect as if this Act were included c. 26. amongst the Acts therein mentioned.

2. This Act may be cited as the Post Office and Telegraph (Money) Act, 1948. Short title.



CHAPTER 17.*Requisitioned Land and War Works Act, 1948.*

ARRANGEMENT OF SECTIONS.

*General provisions as to Requisitioned Land and
War Works Act, 1945.*

Section.

1. Continuance of provisions of Act of 1945.
2. Acquisition of agricultural land where use in existing units is affected by government war work.
3. Highways.
4. Discharge or modification of easements over land acquired under Defence Acts.
5. Application of Part VIII of Act of 1945 to compensation to certain tenants in Northern Ireland.
6. Minor and consequential amendments.

Compensation for taking possession of land.

7. Amount of rental compensation for requisitioned land.
8. Maxima for rental compensation.
9. Application of provisions as to rental compensation where land requisitioned before commencement of Act.
10. Amount of compensation in respect of making good requisitioned land.
11. Minor amendments as to compensation for taking possession of land.

Government oil pipe-lines.

12. Permanent power to maintain government oil pipe-lines.
13. Compensation in respect of government oil pipe-lines.
14. Registration of rights as to government oil pipe-lines.
15. Supplementary provisions as to government oil pipe-lines.

Supplementary.

16. Expenses.
17. Regulations.
18. Application to Scotland.
19. Application to Northern Ireland.
20. Short title, citation, construction and interpretation.

SCHEDULE.—Minor and consequential amendments of Act of 1945.

An Act to continue certain provisions of the Requisitioned Land and War Works Act, 1945, to make permanent certain other provisions thereof, and otherwise to amend that Act; to amend the Compensation (Defence) Act, 1939, as respects compensation for the taking of possession of land; to make further provision, by the amendment of those Acts and otherwise, as respects the maintenance and use of certain oil pipelines and the compensation therefor; and for purposes connected with the matters aforesaid.

[19th February 1948.]

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:—

General provisions as to Requisitioned Land and War Works Act, 1945.

1.—(1) The proviso to subsection (5) of section five of the Transitional Powers Act (under which the continuance and extension to transitional purposes under that Act of the powers exercisable under Parts II, V and VI of the Act of 1945 does not have effect unless it is certified that work was done or land was used for the purposes specified in subsection (1) of section one of the first-mentioned Act) is hereby repealed; and any reference in the said subsection (5) to the purposes so specified shall include a reference to the additional purposes specified in subsection (1) of section one of the Supplies and Services (Extended Purposes) Act, 1947.

Continuance
of provisions
of 8 and 9
Geo. 6. c. 43.

10 & 11 Geo. 6.
c. 55.

(2) The following provisions of the Act of 1945, that is to say—

(a) section thirty-five (which temporarily amends the procedure for acquisition under the Defence Acts); and

(b) sections forty and forty-one (which provide, where notice to treat is given before the expiration of two years from the end of the war period, for the adjustment of compensation so as to eliminate the effect of government war work),

shall have effect as if the expression "war period" included any period during which the Transitional Powers Act is in force; and paragraph 18 of the Fifth Schedule to the Fire Services Act, 1947, (which in relation to the acquisition of land by fire authorities continues the provisions of the said sections forty and forty-one in like manner as they are continued by this subsection) is hereby repealed.

10 & 11 Geo. 6.
c. 41.

(3) Sections thirty-three and thirty-four of the Act of 1945 (which confer power to acquire easements and restrictive rights and to acquire particular levels and reversionary interests) shall have permanent effect.

Acquisition of agricultural land where use in existing units is affected by government war work.
10 & 11 Geo. 6.
c. 48.

2. The following subsection shall be added to section six of the Act of 1945 (which provides for the acquisition of land depreciated by government war work in order to secure its rehabilitation):—

“(3) Whether there are government war works on the land or not, in the case of land which is being used for agriculture (as defined in the Agriculture Act, 1947) or for forestry, or which, if not being so used, was being so used at any time after the twenty-third day of August, nineteen hundred and thirty-nine and in the opinion of the Minister of Agriculture and Fisheries ought to be brought back into such use, the power of acquisition shall be exercisable where the said Minister is satisfied that—

- (a) the effect on the land of government war work or government war use is such that without a permanent adjustment of boundaries between the land and other land the most efficient use of the land either for agriculture (as defined as aforesaid) or for forestry will be prevented, and
- (b) the adjustment is only likely to be made if the land is acquired by virtue of this Part of this Act.”

Highways.

3.—(1) Where a Minister certifies as respects any highway—

- (a) that in the circumstances existing at a time before the twenty-fourth day of February, nineteen hundred and forty-six an order could have been made under Regulation sixteen, fifty-two or sixty-nine A of the Defence (General) Regulations, 1939, as in force at that time, stopping up or diverting the highway; and
- (b) that the exercise of the right to use the highway has been continuously prevented since that time, but without the making of such an order;

then section fifteen of the Act of 1945 (which provides for the permanent stopping up or diversion of highways stopped up in the exercise of emergency powers) shall apply as if the exercise of the right to use the highway had been prevented in pursuance of such an order.

(2) For the purposes of the said section fifteen, and of sections sixteen and twenty-one of the Act of 1945 (which provide for the retention of railways, cables and pipes where a highway is not stopped up and for the temporary continuation

of orders for the stopping up or diversion of highways), the expression "war period" in the Act of 1945 shall include any period during which the Transitional Powers Act is in force.

4.—(1) Subject to the provisions of this section, the provisions of Part II of the Act of 1945 as to the discharge or modification of restrictions on the user of land arising by virtue of contract, and of section forty-one of that Act as to the adjustment of compensation on the discharge or modification of such restrictions, shall apply to easements over land which a Minister has acquired under the said Part II or has power so to acquire, or would have power so to acquire if he did not already own it, as if an easement were such a restriction.

Discharge or modification of easements over land acquired under Defence Acts.

(2) Subject to the provisions of this section, where a Minister having power, otherwise than by virtue of the said Part II, to acquire land under the Defence Acts has so acquired or proposes so to acquire any land which is subject to an easement, he may, by notice served on the persons and in the manner on whom and in which under those Acts notice to treat would be required to be served for the compulsory acquisition of the dominant tenement, extinguish the easement or modify it in such manner and to such extent as may be specified in the notice; and the provisions of subsections (3) and (4) of section seven of the Act of 1945 (which provide for compensation where a restriction is discharged or modified under that section) and the said section forty-one thereof shall with the prescribed adaptations apply where an easement is extinguished or modified under this subsection.

(3) Where apart from this subsection any easement, being a right of way or right of laying down, erecting, continuing or maintaining any apparatus on, under or over land, could be extinguished or modified under either of the two last foregoing subsections, and any interest in the dominant tenement is vested in the person carrying on a statutory undertaking (as defined in the Town and Country Planning Act, 1947) for the purpose of the carrying on thereof, the following provisions of the Town and Country Planning Act, 1944, that is to say—

10 & 11 Geo. 6.
c. 51.
7 & 8 Geo. 6.
c. 47.

- (a) section twenty-five (which relates to the extinguishment of rights of way and rights as to apparatus of statutory undertakers and to compensation therefor),
- (b) sections twenty-six and twenty-seven (which relate to the extension and modification of powers and duties of statutory undertakers and the relief of statutory undertakers from obligations the fulfilment of which has been rendered impracticable), and
- (c) the Schedules referred to in those sections,

shall, with the prescribed adaptations, apply as respects the interest of the person carrying on the statutory undertaking, and shall so apply in substitution for any corresponding provisions of the Act of 1945 or of subsection (2) of this section.

Application of Part VIII of Act of 1945 to compensation to certain tenants in Northern Ireland. 19 & 20 Geo. 5. c. 14.

5. In the case of a notice to quit given under section seven of the Northern Ireland Land Act, 1929 (which provides for the giving of notice to tenants in certain cases subject to the payment of compensation of an amount calculated by reference to the rateable value of the holding and any buildings thereon) at any time during the period during which, on the compulsory acquisition of land by a Minister, compensation falls to be adjusted in accordance with Part VIII of the Act of 1945 (which provides for adjusting compensation to offset changes in value due to government war work and other circumstances arising while a Minister or person acting under him is in occupation of land) the said Part VIII shall apply in assessing the compensation under the said section seven as if references in the said Part VIII to the compulsory acquisition of land as therein mentioned were references to the service of notice to quit under the said section seven, and as if references to the land acquired were references to the holding or part of the holding to which the notice to quit relates:

Provided that this section shall not have effect where the amount of the compensation in consequence of a notice to quit given before the commencement of this Act has been agreed or determined before the seventeenth day of January, nineteen hundred and forty-eight.

Minor and consequential amendments.

6. The Act of 1945 shall have effect subject to the amendments specified in the Schedule to this Act, being minor amendments and amendments consequential on the foregoing provisions of this Act.

Compensation for taking possession of land.

Amount of rental compensation for requisitioned land.

7.—(1) In relation to rental compensation in respect of the taking possession of land, that is to say compensation calculated in accordance with paragraph (a) of subsection (1) of section two of the Act of 1939 by reference to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, the said section two shall have effect, as respects any period after the commencement of this Act, subject to the provisions of this section.

(2) So much of proviso (i) to subsection (1) of the said section two as provides, in relation to rental compensation, for disregarding any appreciation of values due to the emergency shall not have effect, but—

(a) rental compensation shall not in any case exceed the maximum applicable in that case under the next following section;

(b) where the taking possession of land which gives rise to rental compensation has occurred before the appointed day for the purposes of the Town and Country Planning Act, 1947, the rental compensation shall be assessed on the assumption that at all material times the land was subject to such a permanent restriction of development as is specified in subsection (3) of section fifty-five of the said Act of 1947.

(3) Where possession of any land is or has been retained in exercise of the right conferred by subsection (2) of section twenty-eight of the Act of 1945 on the determination of some other right not conferred by emergency powers, this and the three next following sections shall apply as if possession had been taken on the determination of that other right.

8.—(1) Where the requisitioned land consists only of rent-restricted land, the rental compensation shall not exceed the permissible rent. Maxima
for rental
compensation

(2) Where the requisitioned land includes no rent-restricted land, the rental compensation shall not exceed one hundred and sixty per cent. of what would be the amount thereof, calculated by reference to the level of rental values obtaining in respect of comparable land at the thirty-first day of March, nineteen hundred and thirty-nine, instead of by reference to the level obtaining immediately before possession of the land was taken, but otherwise in accordance with the Act of 1939 as originally enacted.

(3) Where the requisitioned land consists partly of rent-restricted land and as to the remainder of other land, there shall be ascertained—

(a) the amount which under subsection (1) of this section would be the limit of rental compensation if the requisitioned land consisted only of the rent-restricted land, and

(b) the amount which would be the limit of rental compensation for the whole of the requisitioned land if none of it were rent-restricted land,

and the rental compensation shall not exceed the aggregate of the amount ascertained under paragraph (a) of this subsection and so much of the amount ascertained under paragraph (b) thereof as is properly apportionable to that part of the requisitioned land which is not rent-restricted land.

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

“ requisitioned land ” means the aggregate of the land in respect of which, in any case, rental compensation falls to be assessed;

“rent-restricted land” means land consisting of one or more rent-restricted properties or parts thereof and of no other land;

“rent-restricted property” means a property (whether or not the subject of a tenancy) in the case of which the following conditions are fulfilled, that is to say—

(a) that immediately before the time when possession was taken of the property or part thereof in question the property or part was being used for residential purposes, or if it was not then being used that it had been used for residential purposes when last used before that time, and

(b) that if an unfurnished tenancy of the property had been granted immediately before the said time the amount of the rent recoverable under the tenancy would have been restricted by the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939;

“permissible rent” means—

(a) in relation to a rent-restricted property, the maximum rent which would in accordance with the last-mentioned Acts have been recoverable under the tenancy referred to in paragraph (b) of the last foregoing definition, on the assumption that the tenant undertook to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses if any, necessary to maintain the property in a state to command that rent,

(b) in relation to part of a rent-restricted property, so much of the said maximum rent as is properly apportionable thereto;

“unfurnished tenancy” means a tenancy under which a property is let for residential purposes, not being a tenancy where the application of the said Acts of 1920 to 1939 is excluded by reason of the property being let at a rent including payments in respect of board, attendance or use of furniture.

Application of provisions as to rental compensation where land requisitioned before commencement of Act.

9.—(1) Where the taking possession of land which gives rise to rental compensation occurred before the commencement of this Act, the Act of 1939 and section seven of this Act shall have effect subject to the provisions of this section.

(2) The rental compensation shall be assessed by reference to the level of rental values obtaining in respect of comparable land at the commencement of this Act, instead of by reference

to the level obtaining immediately before possession of the land was taken:

Provided that section seven of this Act and this subsection shall not have effect in relation to the rental compensation payable in respect of any land to any person, unless he or a person previously entitled to the rental compensation in respect of that land has made application in that behalf in such form and manner and to such authority as may be provided by rules made by the Treasury under the Act of 1939 and not later than the expiration of six months from the commencement of this Act or such longer period as that authority may in special circumstances allow.

(3) No application for an increase of rental compensation under section forty-five of the Act of 1945 (which provides for increasing rental compensation which has been determined by reference to a level of rental values lower both than the level obtaining on the thirty-first day of March, nineteen hundred and thirty-nine, and than that obtaining on the appointed day for the purposes of the said section forty-five) shall be of any effect if made after the expiration of six months from the commencement of this Act or such longer period as the authority to which under that section applications thereunder are required to be made may in special circumstances allow.

(4) Nothing in section seven of this Act shall operate, in a case falling within this section, so as to reduce the amount of rental compensation below the amount which would be payable apart from that section, whether by virtue of the Act of 1939 as originally enacted or by virtue of any increase under the said section forty-five.

(5) Any increase of rental compensation payable by virtue of section seven of this Act in a case falling within this section shall be payable as from the commencement of this Act or the date when the person making application for the increase became entitled to the rental compensation, whichever is the later.

10.—(1) Proviso (ii) to subsection (1) of section two of the Act of 1939 (which provides that the compensation payable under paragraph (b) of that subsection in respect of damage to land occurring during the period of requisition shall not exceed the value of the land at the time when possession thereof was taken, no account being taken of any appreciation in the value thereof due to the emergency) shall not have effect as respects compensation under the said paragraph (b) accruing due after the commencement of this Act, but subject to the provisions of subsection (4) of this section such compensation shall not exceed the amount by which the compulsory purchase price of the land in the state in which it was when the

Amount of compensation in respect of making good requisitioned land.

compensation accrued due falls short of what would have been the compulsory purchase price of the land if it had then been in the state in which it was when possession of the land was taken.

(2) In this section the expression "compulsory purchase price," in relation to any land, means the amount of the compensation (excluding any compensation for disturbance or for severance or injurious affection) which would be payable on the compulsory acquisition by a Government department or other public or local authority, in pursuance of a notice to treat served immediately before the compensation under the said paragraph (b) accrued due, of a freehold interest in the land free from encumbrances but subject to any easement or other restriction affecting the land at the date of the notice to treat.

(3) For the purposes of this section, the compulsory purchase price of land in the state in which it was when compensation under the said paragraph (b) accrued due shall be calculated without regard—

- (a) to war damage occurring during the period for which possession of the land was retained; or
- (b) to any work done during that period in respect of which on such a compulsory acquisition as aforesaid subsection (2) or (3) of section forty-one of the Act of 1945 (which provide for taking into account increases of value paid for in whole or in part by persons interested in the land) would apply;

but notwithstanding anything in the said section forty-one regard shall be had in calculating the said price to all other damage occurring or work done on the land during that period.

(4) Where during the period for which possession of the land was retained damage (other than war damage) occurred to any such work as is mentioned in paragraph (b) of the last foregoing subsection, the amount to which the compensation is limited by virtue of subsection (1) of this section shall be increased so as to take account of that damage to such extent as may be just having regard to any such expense, agreement or payment as is mentioned in subsection (2) or (3) of the said section forty-one.

(5) Section fifty-four of the Act of 1945 (which provides for certain purposes that where a payment in respect of the value of works has been made under Part II of that Act the provisions as to compensation of section two of the Act of 1939 shall have effect as if a new period of requisition had begun on the date of the payment) shall not have effect as respects compensation under paragraph (b) of subsection (1) of the said section two.

11.—(1) There is hereby repealed so much of proviso (i) to subsection (1) of section two of the Act of 1939 as provides for disregarding any appreciation of values due to the emergency in computing for the purpose of compensation the amount which an incoming tenant of agricultural land might have been expected to pay in addition to rent. Minor amendments as to compensation for taking possession of land.

(2) Nothing in section three of the Act of 1939 (which provides for compensation in respect of the doing of work on land) shall apply, or be deemed ever to have applied, to damage to land occurring while possession of the land is retained.

Government oil pipe-lines.

12.—(1) In relation to government oil pipe-lines and works accessory thereto subsection (1), and paragraph (a) of subsection (3), of section twenty-eight of the Act of 1945 (which authorise the maintenance and use of government war works for the purpose of the public service or for any other purpose for which they were maintained or used in the exercise of emergency powers, and preserve the rights of persons using the works) shall, subject to the provisions of this Act, have permanent effect. Permanent power to maintain government oil pipe-lines.

(2) In relation to government oil pipe-lines and works accessory thereto the powers conferred by the said section twenty-eight shall include power to maintain and use any such line or accessory works, or authorise the use thereof, for any purpose for which they are suitable.

(3) In this Act the expression " government oil pipe-line " means any government war works being the whole or part of a main or pipe installed for the transmission of petroleum.

(4) A Minister may remove any main or pipe or part thereof, being a government oil pipe-line, or any works accessory thereto, and may replace any such thing previously removed; and section twenty-eight of the Act of 1945 and this Act shall apply to any replacement as if it had been the original thing removed.

(5) If in pursuance of an agreement with a Minister a government oil pipe-line is diverted, or any works accessory thereto are moved to a new site, the said section twenty-eight and this Act shall apply to the line as diverted, or to the works on the new site, as the case may be, as if it or they had been the original line or works.

(6) If without the consent of a Minister any building or structure is erected over a government oil pipe-line or works accessory thereto or the site of such a line or such works, or so near thereto as to obstruct the use of the line or works

or access thereto or to the site thereof, a Minister may cause the building or structure to be removed and may recover the cost of the removal from the person by whom the building or structure was erected.

(7) Any person who without lawful authority tampers with, alters or removes a government oil pipe-line or works accessory thereto shall be liable on summary conviction to a fine not exceeding ten pounds.

Compensation
in respect of
government
oil pipe-lines.

13.—(1) In respect of the exercise of the powers conferred by the last foregoing section, compensation shall be payable by the Minister of Works in accordance with the following provisions of this section.

(2) Where the value of any land is diminished by the coming into operation of the last foregoing section, compensation for the diminution shall be payable in the form of a lump sum of such amount as may be agreed between the Minister of Works and the persons interested in the land or, in default of agreement, as may be determined by arbitration in the prescribed manner; and compensation under this subsection shall be divisible among the said persons in such shares as they may agree, or in default of agreement, as may be determined as aforesaid.

(3) In assessing compensation under the last foregoing subsection regard shall be had to the rights to compensation conferred by subsection (6) of this section, and to the following provisions of this Act and the provisions of regulations thereunder.

(4) The right to compensation conferred by subsection (2) of this section shall as respects any period after the commencement of this Act be in substitution for any right to compensation under subsection (2) of section three of the Act of 1939 (which provides for compensation in respect of the doing of work on land by reference to the diminution of the annual value of the land); and interest on any share of compensation under subsection (2) of this section, at the like rate as is for the time being payable on compensation under the Act of 1939, shall run as from the commencement of this Act and be payable at the time when the share is paid.

(5) Where under subsection (4) of section three of the Act of 1939 (which provides for the termination of compensation under subsection (2) of that section and its replacement by a lump sum payment calculated by reference to the depreciation of estates and interests in land) any payment has been made before the commencement of this Act in respect of a government oil pipe-line or works accessory thereto, the payment shall be treated as a payment in respect of the estate or interest in question on account of the share attributable to

that estate or interest of any compensation under subsection (2) of this section, and interest under the last foregoing subsection shall be reduced accordingly; and after the commencement of this Act no payment under subsection (4) of the said section three shall be made in respect of a government oil pipe-line or works accessory thereto, whether it accrued due before or after the commencement of this Act:

Provided that in the case of a payment under the said subsection (4) which accrued due to any person before the commencement of this Act but has not been made before the commencement thereof, the said person shall be entitled to interest on the payment in accordance with the provisions in that behalf of the Act of 1939 as from the date when the payment accrued due until the commencement of this Act.

(6) Where in the exercise of any power of use, maintenance, removal or replacement of a government oil pipe-line or works accessory thereto which is conferred by the last foregoing section a person suffers loss by reason of damage to crops or other growing things, stock, chattels or any land or buildings or works on, under or over land, he shall be entitled to compensation in respect of the damage of such amount as may be agreed between the Minister of Works and the person in question or, in default of agreement, as may be determined by arbitration in the prescribed manner.

(7) The Treasury may by regulations require, as a condition of the payment of compensation under this section, that except in such circumstances as may be prescribed a claim shall be made in the prescribed form and manner and within such period as may be determined by or under the regulations; and references in subsection (2) of this section to persons interested in land do not include such persons who fail duly to make a claim required by regulations under this subsection.

14.—(1) Subject to the provisions of this section, section twelve of this Act shall not after the thirty-first day of December, nineteen hundred and forty-nine, apply to any pipe-line, or works accessory thereto, unless the rights conferred by subsection (1) of that section have been registered in the prescribed manner in the appropriate register of local land charges.

Registration
of rights as to
government
oil pipe-lines.

(2) The Treasury may by regulations require, as a condition of the payment of compensation under subsection (2) of the last foregoing section, that the prescribed documents of title to interests in land shall be endorsed in the prescribed manner and that the prescribed evidence shall be produced of the endorsement; and the last foregoing subsection shall not apply where evidence of an endorsement has been produced in accordance with the regulations.

(3) Where a pipe-line is diverted, or works are moved, as mentioned in subsection (5) of section twelve of this Act, subsection (1) of this section shall not apply to the line as diverted or to the works on the new site, but the said section twelve shall not as against a purchaser (as defined in the Land Charges Act, 1925) apply if the purchase was completed after the agreement for the diversion of the line or moving of the works unless the rights conferred by that section have been registered as aforesaid before the completion of the purchase:

15 & 16 Geo. 5.
c. 22.

16 & 17 Geo. 5.
c. 11. Provided that section four of the Law of Property (Amendment) Act, 1926 (which relates to the date of effective registration and to priority notices), shall apply for the purposes of this subsection as if the registration of the said rights were to be made in pursuance of the Land Charges Act, 1925.

(4) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this section, and in subsection (1) of this section the expression "prescribed" means prescribed by rules made in the exercise of that power.

Supplemen-
tary provisions
as to
government
oil pipe-lines.

15.—(1) Any person authorised in that behalf by a Minister may, for the purpose—

- (a) of exercising any powers conferred by section twelve of this Act, or
- (b) of restoring land where a government oil pipe-line or works accessory thereto are abandoned, or
- (c) of inspecting any such land or works,

enter upon any land of which the Minister is not in possession:

Provided that—

- (i) except in a case of emergency or for the purpose of inspection by a person producing, if required, written evidence of his authority so to do, entry upon any land shall not be demanded as of right unless reasonable notice of the intended entry has been served on the occupier of the land in the manner provided by paragraphs (i) to (v) of subsection (1) of section eight of the Act of 1945;
- (ii) where otherwise than for the purpose of inspection only any land has been entered upon in pursuance of this subsection without notice being served as aforesaid on the occupier of the land, the Minister shall forthwith cause notice of the entry to be served on the occupier in the manner aforesaid.

(2) Subsections (6) and (7) of section thirteen of this Act shall apply in relation to powers conferred by the last foregoing subsection as they apply to the powers mentioned in the said subsection (6).

(3) Sections seventy-eight to eighty-five of the Railways 8 & 9 Vict. Clauses Consolidation Act, 1845 (which restrict the working c. 20. of minerals, subject to the payment of compensation) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) 13 & 14 Geo. 5. Act, 1923, shall apply in relation to any government oil pipe- c. 20. line or works accessory thereto with the substitution—

- (a) for references to the railway of references to the pipe-line or works;
 - (b) for references to the company of references to the Minister or other person entitled to use the pipe-line or works;
 - (c) for references to the Special Act of references to section twenty-eight of the Act of 1945.
- (4) The Treasury may make regulations—
- (a) for the protection of persons affected by the maintenance and use of government oil pipe-lines and works accessory thereto, and in particular for requiring the Minister or other person entitled to the use thereof to keep any such line and works in good repair, to take such steps as may be prescribed for restoring land where any such line or works are abandoned, and to indemnify persons against loss or damage caused by any failure to keep any such line or works in good repair, and for relieving statutory undertakers and other persons of liabilities or obligations arising in consequence of any such failure or any exercise of the powers conferred by section twelve of this Act or this section;
 - (b) for requiring notice to be given where a government oil pipe-line or works accessory thereto are abandoned, and for discontinuing the operation of provisions of section twelve of this Act or this section; or of regulations under this subsection, where such a notice is given;
 - (c) for applying in relation to government oil pipe-lines passing under highways the provisions of Part VI of the Third Schedule to the Water Act, 1945 (which 8 & 9 Geo. 6. relates to the breaking-up of highways for the pur- c. 42. poses of repairing pipes thereunder) and for excluding in relation to government oil pipe-lines the provisions of section sixteen of the Act of 1945.

Supplementary.

Expenses.

16. There shall be defrayed out of moneys provided by Parliament—

- (a) any increase in consequence of this Act in the sums payable under the Act of 1939 or the Act of 1945 out of moneys so provided;
- (b) any other expenses of a Minister incurred under the provisions of this Act relating to easements over land acquired or proposed to be acquired under the Defence Acts or to government oil pipe-lines.

Regulations.

17.—(1) Save as provided by this Act, the Treasury may by regulations prescribe anything authorised or required by this Act to be prescribed.

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

(3) Any statutory instrument made under this Act shall be subject to annulment by resolution of either House of Parliament.

Application
to Scotland.

18.—(1) This Act shall apply to Scotland subject to the modifications set out in this section.

(2) For any reference to the Minister of Agriculture and Fisheries there shall be substituted a reference to the Secretary of State for Scotland.

(3)—(a) For references to the Town and Country Planning Act, 1947, and to subsection (3) of section fifty-five and subsection (3) of section seventy-five of that Act there shall be respectively substituted references to the Town and Country Planning (Scotland) Act, 1947, and to subsection (3) of section fifty-two and subsection (3) of section seventy-two of that Act.

(b) For references to the Railways Clauses Consolidation Act, 1845, and to the following provisions of that Act, that is to say, sections seventy-eight to eighty-five, there shall be respectively substituted references to the Railways Clauses Consolidation (Scotland) Act, 1845, and to sections seventy-one to seventy-eight of that Act.

(c) For any reference to Part VI of the Third Schedule to the Water Act, 1945, there shall be substituted a reference to section seventy of, and Part I of the Third Schedule to, the Water (Scotland) Act, 1946.

(d) For references to the Town and Country Planning Act, 1944, and to the following provisions of that Act, that is to say, sections twenty-five, twenty-six and twenty-seven, there shall be respectively substituted references to the Town and Country Planning (Scotland) Act, 1945, and to the following provisions of that Act, that is to say, sections twenty-four, twenty-five and twenty-six.

10 & 11 Geo. 6.
c. 53.

8 & 9 Vict.
c. 33.

9 & 10 Geo. 6.
c. 42

8 & 9 Geo. 6.
c. 33.

(4) The expression "easement" includes servitude; the expression "freehold interest in land" shall be construed as a reference to the *dominium utile* or, in the case of land other than feudal land, the ownership of the land; and the expression "reversionary interest" shall be construed as a reference to the interest of the landlord in land subject to a lease.

(5) For section fourteen the following section shall be substituted:—

" 14.—(1) Section twelve of this Act shall not, after the thirty-first day of December, nineteen hundred and forty-nine, apply to a government oil pipe-line running through, or any works accessory thereto on, any land unless the Minister has executed and recorded in the appropriate register of sasines a deed of servitude granting to himself the rights conferred by subsection (1) of the said section twelve.

(2) Where the Minister executes a deed under the foregoing subsection, he shall give notice of the effect thereof in such manner as is in his opinion best adapted for informing the persons affected."

(6) Paragraph 3 of the Schedule shall not apply.

19.—(1) This Act shall apply to Northern Ireland subject to the modifications set out in this section. Application
to Northern
Ireland.

(2) The following provisions shall not apply, namely, paragraph (b) of subsection (2) of section seven, sections twelve to fifteen and paragraph 10 of the Schedule.

(3) Any reference to a provision contained in Part III of the Act of 1945 shall be construed as a reference to that provision as applied to Northern Ireland by section twelve of the Northern Ireland Act, 1947. 10 & 11 Geo. 6.
c. 37.

(4) Section four shall have effect as if the enactments referred to in subsection (3) thereof extended to Northern Ireland, and as if any reference therein to the prescribed adaptations were a reference to such adaptations as may be prescribed for the purposes of that section as it applies to Northern Ireland.

(5) Subsection (4) of section eight shall have effect as if for the reference to the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939 there were substituted a reference to the Rent and Mortgage Interest (Restrictions) Acts (Northern Ireland) 1920 to 1944.

(6) Paragraph 3 of the Schedule shall have effect as if for the reference to a County Agricultural Executive Committee

established under the Agriculture Act, 1947, there were substituted a reference to any committee or body exercising substantially similar functions under any corresponding enactment of the Parliament of Northern Ireland.

Short title,
citation,
construction,
and inter-
pretation.

20.—(1) This Act may be cited as the Requisitioned Land and War Works Act, 1948, and this Act and the Act of 1945 may be cited together as the Requisitioned Land and War Works Acts, 1945 and 1948.

(2) This Act shall be construed as one with the Act of 1945, so however that in the provisions thereof amending the Act of 1939 expressions have the meanings assigned to them by the Act of 1939.

(3) In this Act—

8 & 9 Geo. 6.
c. 43.

the expression " the Act of 1945 " means the Requisitioned Land and War Works Act, 1945;

2 & 3 Geo. 6.
c. 75.

the expression " the Act of 1939 " means the Compensation (Defence) Act, 1939;

9 & 10 Geo. 6.
c. 10.

the expression " the Transitional Powers Act " means the Supplies and Services (Transitional Powers) Act, 1945.

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

SCHEDULE.

Section 6.

MINOR AND CONSEQUENTIAL AMENDMENTS OF ACT OF 1945.

1. For the purposes of subsection (2) of section eight and of subsection (4) of section seventeen (which require proposals of a Minister to exercise the powers under the Act to be referred to the War Works Commission where an objection is made) and of any other provision referring to an objection such as is mentioned in either of those subsections, no account shall be, or be deemed ever to have been, required to be taken of an objection which is withdrawn.

2. In section eleven, in subsection (3) (which lays down the principles on which the War Works Commission are to act in considering proposals for the acquisition of land on the grounds specified in section six), for the words from " on the ground that " to " total or partial rehabilitation thereof " there shall be substituted the words " under section six of this Act ".

3. In section thirteen (which provides for disregarding work done on land possession of which has been taken for agricultural purposes by the Minister of Agriculture and Fisheries or by the War Agricultural Executive Committee) the reference to the War Agricultural Executive Committee shall include a reference to a County Agricultural Executive Committee established under the Agriculture Act, 1947.

4. As respects Scotland, in the said section thirteen the reference to the War Agricultural Executive Committee shall include a reference to any committee exercising under any enactment relating to Scotland (whether passed before or after the commencement of this Act) and corresponding to the Agriculture Act, 1947, functions similar to those exercised by a County Agricultural Executive Committee established under the last-mentioned Act.

5. In section fourteen, in subsection (3), the words "or the order is made" are hereby repealed.

6.—(1) Where in pursuance of an order made under section fifteen any highway is permanently stopped up or diverted, and immediately before the date on which the order became operative there was under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster General, the Postmaster General shall have the same powers in respect of that line as if the highway had not been stopped up or diverted:

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line should be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

41 & 42 Vict.
c. 76.

(2) In this paragraph the expression "alter" has the same meaning as in the Telegraph Act, 1878.

(3) Nothing in this paragraph shall be construed as limiting the powers conferred by Part IV (which relates to telegraphic lines constructed in the exercise of emergency powers).

7. In section twenty-one, in subsection (1) (which provides for the temporary continuance of orders made under Defence Regulations for the stopping up or diversion of highways notwithstanding the expiration or revocation of the Defence Regulation in question), the reference to the revocation of a Defence Regulation shall include, and be deemed always to have included, a reference to any amendment thereof narrowing the power to make orders thereunder.

8. In section twenty-nine, in subsection (1) (which, where work has been done on land or the value of land has been diminished, confers for certain purposes a right, as against all persons interested in the land, to enter on any land of which a Minister is not in possession) the words "in the land" where they first occur are hereby repealed.

9. The powers conferred by the Act of 1945 to acquire easements shall include power in the like manner and subject to the like provisions to acquire rights, as against all persons affected or to be affected, to take water from a watercourse for the benefit of any land, whether contiguous thereto or not, for the like purposes and to the like extent as water could be taken by virtue of ownership of land contiguous to the watercourse at the place where it is proposed to take the water.

10.—(1) The power of a Minister under section fifty-two to make good to any person interested in land the whole or part of expenditure

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incurred by him in dealing with the land with a view to its rehabilitation shall be extended in accordance with the following subparagraph.

(2) Where—

(a) under subsection (3) of section seventy-five of the Town and Country Planning Act, 1947 (which relates to the exercise by local planning authorities of powers to require owners or occupiers to remove government war works) an authority is liable to bear the whole or any part of the cost of taking the steps required by an enforcement notice relating to such works (whether the steps are taken by the authority or by a person entitled to recover expenditure from the authority), and

(b) in the opinion of a Minister it is expedient in the public interest that the steps should be taken,

the said power of the Minister shall include power to undertake, either absolutely or subject to such conditions as he may specify, to make good to the authority the whole or any part of the cost which they are liable to bear as aforesaid.

CHAPTER 18.

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

[24th March 1948.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sums hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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

Issue of
£252,864,020 1s. 5d.
out of the Con-
solidated Fund
for the service of
the years ending
31st March, 1947
and 1948.

sum of two hundred and fifty-two million, eight hundred and sixty-four thousand and twenty pounds, one shilling and five pence.

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-nine, the sum of one thousand and fifty-eight million, one hundred and seventy-four thousand pounds.

Issue of
£1,058,174,000
out of the Con-
solidated Fund
for the service
of the year ending
31st March, 1949.

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 three hundred and eleven million, thirty-eight thousand and twenty pounds, one shilling and five pence.

Power for
the Treasury
to borrow.

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

40 & 41 Vict.
c. 2

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

4. This Act may be cited as the Consolidated Fund (No. 1) Short title. Act, 1948.



CHAPTER 19.

An Act to authorise the passing of sentences of penal servitude for attempts to commit rape.

[24th March 1948.]

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:—

Punishment
for attempted
rape.

1. Where a person is convicted in England or Wales of an attempt to commit rape, the court shall have power to pass a sentence of penal servitude for a term of not more than seven years, in lieu of dealing with him in any other manner in which the court has power to deal with him.

Short title.

2. This Act may be cited as the Attempted Rape Act, 1948.

CHAPTER 20.

An Act to amend the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, as to the number of divisions in which the Court of Appeal may sit.

[24th March 1948.]

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:—

Amendment
of s. 68(3) of
15 & 16 Geo. 5.
c. 49.

1. In subsection (3) of section sixty-eight of the Supreme Court of Judicature (Consolidation) Act, 1925 (which enacts that the Court of Appeal may sit in three divisions at the same time), for the word "three" there shall be substituted the word "four".

Short title.

2. This Act may be cited as the Supreme Court of Judicature (Amendment) Act, 1948.

CHAPTER 21.*Army and Air Force (Women's Service) Act, 1948.*

ARRANGEMENT OF SECTIONS.

Section.

1. Power to raise women's land and air forces.
2. Capacity of women to hold commissions in land and air forces.
3. Application to women of the Army and Air Force Acts, and interpretation and adaptation of those and other enactments.
4. Operation of National Service Acts not to be affected.
5. Short title and commencement.

An Act to enable women to be commissioned and enlisted for service in His Majesty's land and air forces, and for purposes connected therewith. [24th March 1948.]

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

1. The power to raise and maintain land and air forces vested in His Majesty by statute shall include power to raise and maintain forces consisting of or including women, and it is hereby declared that the like power is included in the power to raise land forces vested in His Majesty by virtue of the prerogative of the Crown. Power to raise women's land and air forces.

2. Such women as are selected by His Majesty to serve as officers in any land or air forces may be granted and may hold commissions to serve as officers therein. Capacity of women to hold commissions in land and air forces.

3.—(1) Subject to the next succeeding subsection, the provisions of the Army Act and of the Air Force Act which specify the persons who are persons subject to military law or to the Air Force Act, or to whom the provisions of those Acts respectively may be applied, and any other enactment (including enactments in those Acts other than the provisions aforesaid) in so far as it contains the words "men", "soldiers", "airmen" or other words importing a reference to persons of the male sex only as, or as having been, or as capable of being, members of the land or air forces, shall have effect as if for such words there had been substituted therein words having a like meaning in other respects but importing a reference to persons of either sex. Application to women of the Army and Air Force Acts, and interpretation and adaptation of those and other enactments.

(2) His Majesty may by Order in Council make provision for adaptations and modifications of enactments appearing to him to be requisite in consequence of the preceding provisions of this Act or of things done thereunder :

Provided that a draft of any Order in Council proposed to be made under this subsection 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.

Operation of
National
Service Acts
not to be
affected.

4. Nothing in this Act or done thereunder shall render a woman liable to be called up for service under the National Service Acts, 1939 to 1947.

Short title and
commence-
ment

5. This Act may be cited as the Army and Air Force (Women's Service) Act, 1948, and shall come into operation on such day as His Majesty may by Order in Council appoint.

CHAPTER 22.

Water Act, 1948.

ARRANGEMENT OF SECTIONS.

Section.

1. Amendment of definition of "statutory water undertakers".
2. Combination of certain orders under principal Act.
3. Compulsory acquisition of land for construction of waterworks.
4. Supply of water in bulk.
5. Amendments of s. 14 of principal Act.
6. Amendment of s. 16 of principal Act.
7. Amendments of s. 42 of principal Act.
8. Power to survey and search for water on land proposed to be purchased.
9. Subscriptions to associations of water undertakers.
10. Amendment of definition of "communication pipe," etc.
11. Other amendments of Third Schedule to principal Act.
12. Amendment of Public Health Act, 1936, s. 127.
13. Provisions relating to New Towns development corporations.
14. Miscellaneous provisions and consequential amendments.
15. Interpretation, citation, construction and extent.

SCHEDULE.—Orders under s. 23 or s. 9 of principal Act authorising compulsory acquisition of land.

An Act to amend the Water Act, 1945, and for purposes connected therewith. [24th March 1948.]

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. Section fifty-nine of the principal Act (which provides for the interpretation of that Act) shall have effect as if for the definition of the expression "statutory water undertakers" contained in subsection (1) of that section there were substituted the following definition :—

" ' statutory water undertakers ' means any company, local authority, board, committee, or other person authorised by a local enactment to supply water and any local authority or board supplying water under the Public Health Act, 1936, and also includes, for the purposes of Part II of this Act only, any local authority authorised to supply water by the said Act of 1936 but not actually supplying water under that Act, but the said expression does not include a railway company or navigation authority having statutory power to sell surplus water or any body or person supplying water solely for the purpose of producing motive power by hydraulic pressure. "

Amendment of definition of " statutory water undertakers. "

26 Geo. 5. & 1 Edw. 8. c. 49.

2.—(1) Subject to the provisions of this section, an order under section twenty-three of the principal Act, made on the application of persons who propose to become statutory water undertakers and authorising those persons to supply water, may provide—

Combination of certain orders under principal Act.

- (a) for transferring to the applicants, whether by agreement or compulsorily, the undertaking or part of the undertaking of any water undertakers, whether statutory or not ;
- (b) for requiring any statutory water undertakers to give to the applicants, or the applicants to give to any such undertakers, a supply of water in bulk (whether within or outside their limits of supply), and for requiring the applicants or those undertakers, as the case may be, to take such a supply ;
- (c) for authorising the compulsory acquisition by the applicants of such rights to take water from any stream or other source as may be specified in the order.

(2) Subject to the provisions of this section, an order under section nine of the principal Act, providing for the constitution of a joint board or joint committee of two or more statutory water undertakers or for the amalgamation of the undertakings or parts of the undertakings of two or more statutory water

undertakers, may make provision, in relation to the undertakers constituted by the order, for any purpose authorised by the last foregoing subsection in relation to the applicants for an order under section twenty-three of the principal Act, and may provide—

- (a) for authorising the undertakers to construct, acquire by agreement, alter or continue, and to maintain, water-works and works connected therewith ;
- (b) for authorising the undertakers to raise capital or borrow money for any purposes of their water undertaking.

(3) An order under section twenty-three or section nine of the principal Act which makes provision for any purpose authorised by this section may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary or expedient for that purpose, including provisions for the amendment or repeal of any local enactment and for the transfer of property and liabilities :

Provided that no such order shall, except as provided by section three of this Act, empower the undertakers to acquire compulsorily any land, or shall vary compulsorily the amount of compensation water required by any enactment to be discharged into any water course or the periods during which or the manner in which such compensation water is required to be discharged.

(4) Where application is made under the said section twenty-three or section nine, as the case may be, for an order requiring any statutory water undertakers to give or take a supply of water in bulk, a copy of the notice of the application required by Part I of the First Schedule to the principal Act (which regulates the procedure for making orders under the sections aforesaid) shall be served in accordance with the provisions of paragraph 3 of that Schedule—

- (a) on those undertakers ; and
- (b) on the catchment board for any catchment area, the fishery board for any fishery district, and any river board having jurisdiction over any water-course, from which water is taken by the persons who are to give the bulk supply.

(5) Subsections (3) to (5) of section twenty-six of the principal Act (which provide for securing the provision of compensation water, and for restricting the taking of water, in relation to the acquisition of rights under that section) shall have effect as if references therein to the acquisition of rights under that section included references to the acquisition of the like rights by an order made under section nine or twenty-three of that Act.

(6) Notwithstanding anything in section twenty-three of the principal Act, paragraph 8 of the First Schedule to that Act

(which provides that in certain circumstances an order shall be subject to special parliamentary procedure) shall apply to any order under that section which makes provision for any of the matters specified in subsection (1) of this section.

3.—(1) Subject to the provisions of this section, an order authorising any persons to construct or alter waterworks or works connected therewith may authorise those persons to acquire compulsorily any land required for the construction or alteration of those works, being land which they could be so authorised to acquire by means of a compulsory purchase order made under section twenty-four of the principal Act, or under that section as amended by the Acquisition of Land (Authorisation Procedure) Act, 1946, as the case may be.

Compulsory acquisition of land for construction of waterworks
9. & 10 Geo. 6.
c. 49.

(2) The provisions of the Schedule to this Act shall have effect in relation to an order under the said section twenty-three or the said section nine which authorises any such acquisition as aforesaid.

4.—(1) Subsection (1) of section twelve of the principal Act (which authorises the making of agreements between statutory water undertakers and other persons for the supply of water in bulk) shall have effect as if for the words " Any statutory water undertakers may enter into an agreement with any other persons " there were substituted the words " An agreement may be made between any statutory water undertakers and any other persons."

Supply of water in bulk.

(2) An order made under subsection (1) of section twenty-three of the principal Act on the application of persons who propose to become statutory water undertakers may authorise the applicants to supply water in bulk only.

(3) Any order made by virtue of the last foregoing subsection shall specify the area which, for the purposes of any provisions of the principal Act, is to be deemed to be the limits of supply of the undertakers ; and without prejudice to any other powers exercisable by means of an order under the said section twenty-three or under section twelve of the principal Act, the order may authorise or require the applicants to give a supply of water in bulk to any statutory water undertakers specified in the order, being undertakers authorised to supply water in any part of the said area, and may authorise or require those undertakers to take such a supply from the applicants :

Provided that—

- (a) where the order requires the giving and taking of such a supply as aforesaid, paragraph 8 of the First Schedule to the principal Act (which provides that in certain circumstances an order shall be subject to special parliamentary procedure) shall apply thereto notwithstanding anything in section twenty-three of the principal Act ; and

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(b) where the order authorises the giving and taking of such a supply, paragraph 23 of that Schedule (which provides that in certain other circumstances an order under section twelve of the principal Act approving an agreement for a bulk supply shall be subject to special parliamentary procedure) shall apply thereto as it applies to an order under the said section twelve approving an agreement to the like effect.

(4) Paragraph (ii) of the proviso to subsection (1) of the said section twenty-three (which requires the consent of certain local authorities and statutory water undertakers for an order under that section authorising applicants to supply water in any area) shall not apply to an order made by virtue of subsection (2) of this section.

Amendments
of s. 14 of
principal Act.

5.—(1) No licence shall be required under subsection (3) of section fourteen of the principal Act (which prohibits the construction of boreholes for the purpose of abstracting underground water in certain areas except with the licence of the Minister) in respect of the carrying out of any experimental boring or other work for the purpose of ascertaining the presence of underground water or the quality or quantity of such water, if the work is carried out, with the consent of the Minister and in accordance with any conditions subject to which that consent is given, by a person who has applied for a licence under the said subsection (3).

(2) Subsection (5) of the said section fourteen (which, amongst other things, restricts the abstraction of underground water from certain wells, boreholes or works authorised by subsection (4) of that subsection, except for the purpose for which they were constructed) shall have effect as if the references therein to paragraphs (a) and (c) of the said subsection (4) included a reference to subsection (1) of this section.

(3) References in the said section fourteen to the construction or extension of any well, borehole, or other work for the purpose of abstracting underground water shall be deemed to include references to the installation or modification of machinery or other apparatus for the purpose of abstracting additional quantities of such water :

Provided that no statutory water undertakers shall be required by virtue of this subsection to obtain a licence under the said section fourteen authorising the installation or modification of machinery or other apparatus for the purpose of abstracting underground water from a well, borehole or other work if the quantity of water which may be so abstracted is limited by any local enactment.

(4) Subsection (10) of the said section fourteen shall have effect as if after the word "recoverable" there were inserted the word "summarily".

6. Section sixteen of the principal Act (which empowers statutory water undertakers to prohibit or restrict temporarily the use of hosepipes in certain circumstances) shall have effect as if at the end of the section there were added the following subsection :—

“ (5) During any period when a prohibition or restriction imposed under this section is in force, any officer of the undertakers shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises to which the prohibition or restriction applies for the purpose of ascertaining whether there is or has been any contravention of the prohibition or restriction ; and the section of this Act relating to entry of premises shall apply to any such right of entry.”

7.—(1) Subsection (1) of section forty-two of the principal Act (which requires statutory water undertakers being companies to prepare annual abstracts of the accounts of their undertakings) shall have effect as if the words “ in such form as the Minister may direct,” were omitted, and as if at the end of the subsection there were added the following paragraph :—

“ The Minister may give directions as to the form of the abstracts to be prepared by statutory water undertakers under this subsection, and such directions may be given either in relation to any particular undertakers or in relation to all undertakers of any specified class.”

(2) Subsection (2) of the said section forty-two (which requires such undertakers as aforesaid to transmit to the Minister and to certain local authorities copies of the abstracts prepared under that section) shall have effect as if after the word “ certified ” there were inserted the words “ and a copy of the balance sheet of the undertakers for the year to which the abstract relates.”

8.—(1) The Minister may, on application made to him by any local authority or statutory water undertakers who propose to acquire any land for the purposes of their water undertaking or proposed water undertaking, authorise them to survey that land in accordance with the provisions of this section :

Provided that notice of any such application shall be given by the authority or undertakers to the owner and occupier of the land, and the Minister shall, before giving his authority under this subsection, consider any representations made to him by any such owner or occupier within fourteen days after the receipt of the notice.

(2) Where any local authority or statutory water undertakers are authorised as aforesaid to survey any land under this section, any officer of the authority or undertakers authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable

hours to enter on and survey the land ; and section forty-eight of the principal Act (which makes provision with respect to the exercise of certain powers of entry conferred by that Act) shall apply to any right of entry conferred by this section.

(3) The power to survey land conferred by this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the subsoil or the presence of underground water therein, or the quality or quantity of such water, and to reinstate the land after carrying out any such works :

Provided that a person shall not carry out any works authorised by this subsection on land which is occupied unless at least twenty-four hours notice of his intention so to do has been given to the occupier of the land ; and if the land is held by any statutory undertakers and those undertakers object to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

(4) Where any land on which entry is made in pursuance of this section is damaged in the exercise of any power thereby conferred, any person interested in the land may recover compensation in respect of that damage from the local authority or undertakers on whose behalf the entry was effected ; and where in consequence of the exercise of such a power any person is disturbed in his enjoyment of any land, he may recover compensation in respect of the disturbance from that local authority or those undertakers.

(5) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section (not being damage in respect of which compensation is payable under the last foregoing subsection) nothing in this section shall be construed as exonerating the local authority or undertakers on whose behalf the works were carried out from any liability in respect of that damage to which they would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

(6) Any question of disputed compensation under subsection (4) of this section shall be determined by arbitration in the manner provided by section ninety-one of the Third Schedule to the principal Act.

(7) Nothing in this section shall be construed as authorising the carrying out of works, or the abstraction of water, in contravention of restrictions imposed by section fourteen of the principal Act.

9. Without prejudice to any enactment authorising the payment of contributions by a local authority to any association of local authorities, any statutory undertakers, whether a local

Subscrip-
tions to
associations
of water
undertakers.

authority or not, may pay reasonable subscriptions whether annually or otherwise to the funds of any association of water undertakers formed for the purpose of consultation as to the common interests of those undertakers and the discussion of matters relating to the supply of water.

10.—(1) Where any main is laid alongside and within sixty feet of the middle of a street, then, for the purposes of the definition of "communication pipe" contained in section one of the Third Schedule to the principal Act, the land in which the main is laid, and any land between the main and the street, shall be deemed to form part of that street, and references in that definition to the part of the street in which the main is laid, and to the boundary of the street in which the main is laid, shall be construed accordingly :

Amendment of definition of "communication pipe" etc.

Provided that where the premises supplied with water lie between any such main as aforesaid and the street, only that land in which the main is laid together with any land between the main and those premises shall be deemed to form part of the street.

(2) Where any main is laid as mentioned in the foregoing subsection, the power of the undertakers to lay service pipes, stopcocks and other fittings under section twenty-one of the said Third Schedule shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by the undertakers, to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a street for the purposes specified in the foregoing subsection.

(3) Any consent required for the purposes of the last foregoing subsection shall not be unreasonably withheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Minister ; and any dispute as to the amount of compensation to be paid under the last foregoing subsection shall be determined by arbitration in the manner provided by section ninety-one of the said Third Schedule.

(4) For the avoidance of doubt it is hereby declared that the provisions of section forty-four of the said Third Schedule (which relates to the vesting in the undertakers of communication pipes) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe.

11.—(1) Section seven of the Third Schedule to the principal Act (which enables the undertakers to acquire easements for underground works) shall have effect as if for subsection (1) of that section there were substituted the following subsection :—

Other amendments of Third Schedule to principal Act.

"(1) Where the undertakers are authorised by the special Act to acquire any land compulsorily for the

purpose of executing any underground works, they may, instead of purchasing the land, purchase only such easements and rights over or in the land as may be sufficient for the said purpose, and the Lands Clauses Acts, and the enactments relating to the compensation payable in respect of the compulsory acquisition of land, shall apply accordingly subject to any exceptions and modifications with which those enactments are incorporated with the special Act and to any other necessary adaptations."

(2) Subsection (1) of section thirty of the Third Schedule to the principal Act (which confers on owners or occupiers of premises the right on certain conditions to demand and receive a supply of water for domestic purposes) shall have effect as if, at the end of the proviso to that subsection, there were added the words "or as requiring the undertakers to supply water for any premises in which any of the water fittings are not in accordance with the requirements of any byelaws made under 8 & 9 Geo. 6. section seventeen of the Water Act, 1945, or of any byelaws or regulations made under any other enactment for purposes similar to those for which byelaws may be made under the said section seventeen, being byelaws or regulations applicable to those premises." c. 42.

(3) Section sixty-three of the Third Schedule to the principal Act (which enables the undertakers to repair supply pipes) shall have effect as if for subsection (2) of that section there were substituted the following subsection:—

"(2) Where several houses or other buildings in the occupation of different persons are supplied with water by one common supply pipe belonging to the owners or occupiers of the houses or buildings, the amount of any such expenses as aforesaid and any expenses reasonably incurred by the undertakers in the maintenance of that pipe may be recovered in manner aforesaid from the owners of those premises in such proportions as, in case of dispute, may be settled by the court, but without prejudice to the rights and obligations, as between themselves, of the owners and occupiers of those premises respectively."

(4) Subsection (1) of section sixty-four of the said Third Schedule (which imposes penalties for waste of water by non-repair of water fittings) shall have effect as if for the words "If any person" there were substituted the words "If the owner or occupier of any premises," and for the words "water supplied to him" there were substituted the words "water supplied to those premises."

Amendment
of Public
Health Act,
1936

12.—(1) Where, under subsection (3) of section one hundred and sixteen of the Public Health Act, 1936, the Minister approves the construction by a local authority of works for taking or intercepting water, he may by order (to be made by statutory

instrument) impose on that authority such restrictions or obligations as appear to him to be expedient for the purpose of or in connection with the carrying out of those works.

(2) Notwithstanding anything in subsection (2) of section one hundred and twenty-seven of the Public Health Act, 1936, (which empowers local authorities to require that water supplied by them to certain premises shall be taken by meter) a local authority who supply water under that Act shall not be entitled to require that water supplied for domestic purposes to premises used as a house shall be taken by meter by reason only that part of the premises is used by the same occupier for purposes of a profession.

13.—(1) Subsection (4) of section twenty-four of the principal Act (which relates to the compulsory acquisition of land by local authorities and statutory water undertakers) and the Acquisition of Land (Authorisation Procedure) Act, 1946, in its application to the acquisition of land under the said subsection (4), shall have effect as if references therein to a local authority included references to a development corporation established under section two of the New Towns Act, 1946.

Provisions relating to New Towns development corporations.

g & 10 Geo 6
c. 68.

(2) Notwithstanding anything in paragraph (c) of subsection (1) of section twenty-three of the principal Act, a development corporation established as aforesaid shall not be authorised by means of an order under the principal Act to raise capital or borrow money for any purpose.

14.—(1) Every statutory water undertaker, not being a local authority or a joint committee or joint board appointed jointly by two or more local authorities, shall make to the Minister such reports and returns and give him such information with respect to their functions as he may require, or as may be required by either House of Parliament.

Miscellaneous provisions and consequential amendments

(2) The power conferred on the Minister by section thirty-three of the principal Act to repeal or amend, on the application of any statutory water undertakers, any local enactment relating to the supply of water by those undertakers shall include power to consolidate any such local enactments as aforesaid, with or without amendments.

(3) Paragraph (a) of the proviso to subsection (1) of the said section thirty-three (which provides that an order under that section shall not vary the quantity of compensation water required by any local enactment to be discharged into any water-course) shall have effect as if, after the word "vary," there were inserted the word "compulsorily".

(4) Section thirty-seven of the principal Act (which requires statutory water undertakers to provide a domestic supply for new buildings) shall have effect as if references therein to the laying or providing of mains included references to the construction of service reservoirs

(5) Subsection (6) of section nine of the principal Act (which precludes the constitution under that section of any joint board which could be constituted under section six of the Public Health Act, 1936) and paragraph 10 of the Second Schedule to the principal Act (which restricts the right of appeal to the House of Lords from a decision of the Court of Appeal on application made under that Schedule) shall cease to have effect.

52 & 53 Vict.
c. 63.

(6) The Interpretation Act, 1889, shall apply to the interpretation of any order made under the principal Act after the commencement of this Act as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) any such order and any order repealed thereby shall be deemed to be an Act of Parliament.

(7) In accordance with the foregoing provisions of this Act, section twenty-three of the principal Act shall have effect subject to the following amendments:—

(a) at the beginning of paragraph (i) of the proviso to subsection (1), there shall be inserted the words “except as otherwise provided by the Water Act, 1948,” and the words “land or ” in that paragraph shall be omitted;

(b) in subsection (2) the words “other than paragraph 8,” shall be omitted and at the end of the subsection there shall be added the following proviso:—

“Provided that paragraph 8 of that Schedule shall not apply except in the cases provided by the Water Act, 1948.”

Interpretation,
citation,
construction
and extent.

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

“principal Act” means the Water Act, 1945;

“statutory undertakers” means persons authorised by any enactment to 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;

“appropriate Minister” means—

(a) in relation to statutory undertakers being statutory water undertakers, the Minister;

(b) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power;

(c) in relation to any other statutory undertakers, the Minister of Transport.

(2) References in this Act to the Third Schedule to the principal Act shall include references to that Schedule as incorporated by section one hundred and twenty of the Public Health Act, 1936, or by any other enactment in force at the commencement of this Act.

(3) This Act may be cited as the Water Act, 1948, and the principal Act and this Act may be cited together as the Water Acts, 1945 and 1948.

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

(5) This Act shall be construed as one with the principal Act, and without prejudice to the generality of the foregoing provision, references in the principal Act to any provision of that Act shall be construed as references to that provision as amended by this Act.

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

SCHEDULE.

Section 3.

ORDERS UNDER S. 23 OR S. 9 OF PRINCIPAL ACT AUTHORISING COMPULSORY ACQUISITION OF LAND.

1. The order shall incorporate the Lands Clauses Acts, and those Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to the exceptions and modifications specified in Parts I and III of the Second Schedule to the Act of 1946, and to such other exceptions and modifications (if any) as may be specified in the order :

Provided that where the undertakers are not a local authority within the meaning of the Act of 1946, paragraphs 3 and 4 of the said Second Schedule shall not apply.

2.—(1) A copy of the notice of the order required by paragraph 2 or paragraph 11 of the First Schedule to the principal Act to be published shall be served in accordance with the provisions of paragraph 3 or paragraph 12 of that Schedule on every owner, lessee and occupier (except tenants for a month or for any period less than a month) of any land authorised by the draft order to be compulsorily acquired.

(2) Where any such land as aforesaid is ecclesiastical property (that is to say land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction) a copy of the notice aforesaid shall also be served as aforesaid on the Ecclesiastical Commissioners.

3. Where any such objection as is mentioned in paragraph 7 or paragraph 16 of the First Schedule to the principal Act relates to the compulsory acquisition of land, the Minister may require the objector to state in writing the grounds thereof, and if it is certified by the Minister that the objection relates exclusively to matters that can be dealt with by the tribunal by whom compensation for the compulsory acquisition is to be assessed—

(a) the Minister may disregard the objection for the purposes of the said paragraph 7 or paragraph 16, as the case may be ;
and

- (b) where paragraph 8 or paragraph 17 of the said First Schedule applies to the order, the objection shall be disregarded for the purposes of that paragraph.

4. Notwithstanding anything in paragraph 6 or paragraph 15 of the First Schedule to the principal Act, the order as made by the Minister shall not, unless all persons interested consent, authorise the undertakers to acquire compulsorily any land which they would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

5. Subject as hereinafter provided, Part III of the First Schedule to the Act of 1946 (which makes special provision with respect to land of local authorities and statutory undertakers, common land, inalienable land of the National Trust and ancient monuments) shall apply to the order, whether or not the undertakers are a local authority within the meaning of that Act, as it applies to a compulsory purchase order :

Provided that—

- (a) nothing in this paragraph shall be construed as authorising the compulsory acquisition by undertakers not being such a local authority as aforesaid of any such land as is mentioned in subsection (6) of section twenty-four of the principal Act ; and
- (b) where paragraph 8 or paragraph 17 of the First Schedule to the principal Act applies to the order, this paragraph shall have effect as if for the reference to Part III of the First Schedule to the Act of 1946 there were substituted a reference to paragraph 10 of the last-mentioned Schedule.

6. As soon as may be after the order has been made, the undertakers shall publish in one or more local newspapers circulating in the locality in which the land authorised to be acquired is situated a notice describing the land and stating that the order has been made authorising the undertakers to acquire it compulsorily, and naming a place where a copy of the order as made may be inspected at all reasonable hours ; and shall serve a like notice and copy of the order on any persons on whom notices with respect to the land were required to be served by virtue of paragraph 2 of this Schedule.

7. Part IV of the First Schedule to the Act of 1946 (which relates to the validity and date of operation of compulsory purchase orders under that Act) shall apply to the order as if it were a compulsory purchase order and as if this Act were included among the enactments specified in subsection (1) of section one of that Act ; and subparagraph (1) of paragraph 15 of that Schedule shall have effect accordingly, in relation to the order, as if for the words " this Act," in the third place where those words occur, there were substituted the words " the Schedule to the Water Act, 1948," and as if after the words " this Schedule," in the second place where those words occur, there were inserted the words " or the Schedule to the Water Act, 1948 " :

Provided that nothing in this paragraph shall prohibit or restrict the taking of legal proceedings for questioning the order so far as it relates to matters other than the compulsory acquisition of land.

8.—(1) In this Schedule the expression “ the Act of 1946 ” means the Acquisition of Land (Authorisation Procedure) Act, 1946, and the expression “ the undertakers ” means the persons authorised by the order to acquire land compulsorily.

(2) The provisions of this Schedule shall apply to a development corporation established under section two of the New Towns Act, 1946, as if it were a local authority within the meaning of the Act of 1946.

CHAPTER 23.

Cinematograph Films Act, 1948.

ARRANGEMENT OF SECTIONS.

Section.

1. Obligation of exhibitors to show British films.
2. Determination of quotas of British films.
3. Supplementary provisions as to quotas.
4. Exemption and relief of certain theatres and itinerant exhibitors.
5. Circuit theatres, etc.
6. Charging of rentals for registered films.
7. Application to non-standard films.
8. Composition of Cinematograph Films Council.
9. Amendments of principal Act and repeals.
10. Interpretation, citation, commencement and extent.

SCHEDULES :

First Schedule.—Amendments of principal Act and repeals.

Part I.—Provisions of principal Act amended.

Part II.—Enactments repealed.

Second Schedule.—The Cinematograph Films Act, 1938, as amended by this Act.

An Act to make further provision for securing the exhibition of a certain proportion of British cinematograph films, and otherwise to amend and continue the Cinematograph Films Act, 1938.

[24th March 1948.]

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 Act, an exhibitor who, in any quota period, exhibits registered films to the public at any theatre in Great Britain shall include among the films so exhibited such British films as are required by this section in respect of that period. Obligation of exhibitors to show British films.

(2) Where the films exhibited as aforesaid in any quota period include films registered as long films, the film so exhibited as the first feature film shall, on at least the prescribed percentage of the number of days on which such films are so exhibited, be a film registered as a British film and as an exhibitors' quota film.

(3) Where the films exhibited as aforesaid in any quota period include films registered as short films, or films registered as long

films which are exhibited otherwise than as first feature films, those films shall, to the extent of at least the prescribed percentage of their total exhibited length, be films registered as British films and as exhibitors' quota films.

(4) In this Act the expression "quota period," means the year beginning on the first day of October, nineteen hundred and forty-eight, and each succeeding year during which this section is in force.

(5) The requirements imposed by this section in respect of any quota period shall be complied with separately in respect of the first six months of that period as well as in respect of the whole of that period.

(6) If any exhibitor fails to comply with any of the requirements of this section, he shall be guilty of a quota offence unless the Board of Trade certify under the principal Act that his failure was due to circumstances beyond his control, or the exhibitor proves that fact to the satisfaction of the court.

(7) This section shall continue in force until the thirtieth day of September, nineteen hundred and fifty-eight, and shall then expire.

**Determination
of quotas of
British films.**

2.—(1) The Board of Trade shall, not later than the first day of July, nineteen hundred and forty-eight, by order determine the percentages which are to be the prescribed percentages for the purposes respectively of subsection (2) and subsection (3) of the foregoing section.

(2) Any order made by the Board under this section may be amended by a subsequent order made by the Board :

Provided that no such amending order shall have effect in relation to any quota period beginning earlier than six months from the date on which it is made.

(3) Before making an order under this section, the Board shall consult the Cinematograph Films Council and consider its advice in the matter.

(4) The power of the Board to make orders under this section shall be exercised by statutory instrument ; and any such instrument shall be of no effect unless it is approved by resolution of each House of Parliament.

**Supple-
mentary
provisions as
to quotas.**

3.—(1) For the purposes of subsections (2) and (3) of section one of this Act, a film which was first registered as a British film more than four years before the beginning of the quota period in question shall be disregarded unless, upon an application made not later than the end of that period by a renter having a right to distribute the film in Great Britain, the Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, direct that the film shall be taken into account for that purpose.

(2) A film shall be deemed for the purposes of this Act to be exhibited as the first feature film at a theatre on any day—

- (a) if it is the only long film exhibited at that theatre during the normal hours in the ordinary programme on that day ;
- (b) if the daily rental of the film exceeds that of any other long film so exhibited ; or
- (c) (where the daily rental of the film is equal to that of another long film so exhibited, and is not less than that of any other such long film) if it is the last long film so exhibited.

(3) For the purposes of the last foregoing subsection, the total rental payable by an exhibitor in respect of the exhibition of a film at any theatre during any period (whether ascertained by reference to receipts or otherwise) shall be divided by the number of days in that period on which the film is so exhibited, and the sum so arrived at shall be deemed to be the daily rental of that film.

(4) In computing for the purposes of subsection (3) of section one of this Act the total exhibited length of the films of any class exhibited at any theatre in any quota period, or in the first six months of any quota period, the registered length of each such film shall be multiplied by the number of occasions on which the film is so exhibited (otherwise than as the first feature film) during the normal hours in the ordinary programme.

(5) A film registered as a British film which is exhibited at a theatre on any day shall not be deemed for the purposes of this Act to be exhibited during the normal hours in the ordinary programme unless the whole of that film is exhibited at least once between the hours of five and ten p.m.

(6) A film of which the total labour costs are less than ten shillings per foot shall not be registered as an exhibitors' quota film, and any such film shall be disregarded for the purposes of subsection (2) and (3) of section one of this Act.

4.—(1) If the Board of Trade are satisfied, on application made to them by an exhibitor who exhibits films to the public at any theatre in Great Britain—

- (a) that films are so exhibited at not less than two other theatres in the same locality in competition with his theatre ; and
- (b) that owing to circumstances beyond the control of the applicant films registered as British films are exhibited at those theatres on dates earlier than the dates on which he is able to exhibit the same films in his theatre,

the Board may, if they think fit, direct that in relation to the exhibition of films at the theatre to which the application relates

Exemption
and relief of
certain
theatres and
itinerant
exhibitors.

the prescribed percentage for the purposes of subsection (2) or subsection (3) of section one of this Act shall be reduced, in the case of such quota period or periods as may be specified in the direction, by such amount as may be so specified :

Provided that the Board shall not give any such direction if it appears to them that the theatre is controlled by a person who controls more than two hundred theatres in Great Britain.

(2) Before giving a direction under the last foregoing subsection, the Board shall consult the Cinematograph Films Council and consider its advice in the matter.

(3) If upon application made to them as mentioned in subsection (1) of this section not less than three months before the beginning of any quota period the Board are satisfied—

- (a) that the theatre to which the application relates fulfils the conditions specified in paragraphs (a) and (b) of that subsection ; and
- (b) that the average net box office receipts of the theatre during the year ending six months before the beginning of that quota period did not exceed one hundred pounds per week,

the Board shall direct that the foregoing provisions of this Act shall not apply to the exhibition of films at that theatre during that quota period.

(4) In relation to an exhibitor who, in any quota period, exhibits registered films to the public at theatres in Great Britain (not being theatres of the class described in subsection (3) of this section) but does not so exhibit such films at any one such theatre on more than six days during that period nor at more than one such theatre at the same time, the foregoing provisions of this Act shall have effect as if all the registered films exhibited by him to the public at such theatres in Great Britain in that period were so exhibited at one such theatre.

(5) The reference in subsection (3) of this section to the net box office receipts of a theatre shall be construed as a reference to the receipts from the sale of seats at all performances at which registered films are shown to the public, after deduction of entertainments duty within the meaning of the Finance (New Duties) Act, 1916.

6 & 7 Geo. 5.
c. 11.

Circuit
theatres, etc.

5.—(1) Where application is made to the Board of Trade for a licence under section nine of the principal Act authorising a person to carry on business as an exhibitor at any theatre, and it appears to the Board that the theatre is controlled by a person who controls more than two hundred theatres in Great Britain, any licence issued in pursuance of the application shall be issued subject to the conditions specified in the next following subsection.

(2) The conditions of any such licence as aforesaid shall be such as appear to the Board to be necessary for securing that the exhibitor will, if so required by the Board, exhibit at the theatre as first feature films, on such occasions as the Board may direct during the quota period in respect of which the licence is granted, not more than six films registered as British films and recommended by a Selection Committee to be appointed by the Board for the purpose as being suitable for such exhibition by reason of their entertainment value.

(3) A direction given by the Board under any such condition as aforesaid shall be without prejudice to the requirements imposed on the exhibitor by section one of this Act, but any film exhibited in compliance with such a direction shall be taken into account for the purposes of subsection (2) of that section.

(4) If any such condition as aforesaid is not complied with, the exhibitor shall be guilty of a quota offence unless the Board certify under the principal Act that the failure to comply therewith was due to circumstances beyond the control of the exhibitor and of any person other than the exhibitor having control of the theatre in question, or the exhibitor proves that fact to the satisfaction of the court.

(5) Notwithstanding anything in subsection (3) of the said section nine, if it appears to the Board that any theatre in respect of which application is made for such a licence as aforesaid is controlled by a person who controls more than two hundred theatres in Great Britain, the Board may refuse to issue a licence authorising the applicant to carry on business as an exhibitor at that theatre unless it is shown to their satisfaction—

- (a) that the theatre was controlled by that person on the first day of September, nineteen hundred and forty-seven ; and
- (b) that any arrangements in force for securing that the films exhibited at that theatre are the same as those exhibited at other theatres controlled by that person were also in force on the said date.

6.—(1) The rentals payable in respect of all registered films delivered by a renter to an exhibitor for public exhibition at a theatre in Great Britain during the continuance in force of section one of this Act shall be charged separately in respect of each film :

Charging of
rentals for
registered
films.

Provided that nothing in this subsection shall render unlawful an agreement between a renter and an exhibitor for the delivery as aforesaid of two or more films at an inclusive rental, if the proportion of the rental to be attributed to each film is defined on or before the delivery of those films.

(2) If any film of which the rental is charged in contravention of this section is delivered to an exhibitor as aforesaid, the

renter shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

Application to non-standard films.

7.—(1) Subject to the provisions of this section, this Act and the principal Act shall not apply to films other than standard films, that is to say films of the width of thirty-five millimetres.

(2) The Board of Trade may, after consulting the Cinematograph Films Council and considering its advice in the matter, make regulations applying the provisions of this Act and the principal Act to films other than standard films, subject to such exceptions and modifications as may be specified in the regulations.

(3) The power of the Board to make regulations under this section shall be exercised by statutory instrument; and any such instrument shall be of no effect unless it is approved by resolution of each House of Parliament.

Composition of Cinematograph Films Council.

8.—(1) The constitution of the Cinematograph Films Council shall be varied as follows, that is to say—

(a) the number of members appointed as being independent persons shall be seven instead of eleven;

(b) the number of members appointed as representing exhibitors shall be five instead of four, of whom one shall be appointed as representing exhibitors in Scotland;

(c) the number of members appointed as representing makers of British films shall be four instead of two, of whom one shall be appointed as representing makers of films not intended for general exhibition as first feature films; and

(d) four members shall be appointed as representing persons employed by makers, renters or exhibitors of British films instead of two members representing persons employed by makers of British films.

(2) Any committee of the Council may include persons who are not members of the Council, and any such committee may co-opt as additional members of the committee such persons, whether members of the Council or not, as the committee may, with the approval of the Council, determine.

Amendments of principal Act and repeals.

9.—(1) Subject to the provisions of this section, the provisions of the principal Act specified in Part I of the First Schedule to this Act shall have effect subject to the amendments set out in relation thereto in the second column of that Schedule, being amendments for securing the continuance in force of those provisions, minor amendments, and amendments consequential on the provisions of this Act; and the enactments specified in Part II of that Schedule are hereby repealed.

(2) Notwithstanding anything in this section, the provisions of the principal Act relating to exhibitors' quotas (including

any order made by the Board of Trade under paragraph (c) of subsection (2) of section fifteen of that Act altering the percentages prescribed for the purposes of those provisions by the First Schedule to that Act) shall continue in force until the end of the exhibitors' quota period ending on the thirtieth day of September, nineteen hundred and forty-eight; and without prejudice to subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) the principal Act shall have effect in relation to anything done or omitted before the commencement of this Act, or before the end of the period aforesaid, as the case may be, as if this section had not been enacted.

52 & 53 Vict.
c. 63.

(3) In accordance with the provisions of subsection (1) of this section, the principal Act shall have effect as set out in the Second Schedule to this Act, but without prejudice to the provisions of the last foregoing subsection.

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

Interpretation,
citation, com-
mencement
and extent.
1 & 2 Geo. 6.
c. 17.

“ principal Act ” means the Cinematograph Films Act, 1938, and, except where the context otherwise requires, means that Act as amended by this Act;

“ quota period ” has the meaning assigned to it by section one of this Act;

and other expressions have the same meaning as in the principal Act.

(2) For the purposes of this Act, a theatre shall be deemed to be controlled by any person who has the right to exhibit films thereat or the right to control or direct the exhibition of films thereat (whether by making contracts with renters or otherwise), and any right vested in a company shall be treated for the purposes of this subsection as vested also in any company of which that company is a subsidiary, or which is a subsidiary of that company, within the meaning of the Companies Acts, 1929 and 1947.

(3) References in any enactment to the principal Act shall, unless the context otherwise requires, be construed as references to that Act as amended by this Act.

(4) This Act may be cited as the Cinematograph Films Act, 1948, and the principal Act and this Act may be cited together as the Cinematograph Films Acts, 1938 and 1948.

(5) This Act shall come into force on the first day of April, nineteen hundred and forty-eight.

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

SCHEDULES.

Section 9.

FIRST SCHEDULE.

AMENDMENTS OF PRINCIPAL ACT AND REPEALS.

PART I.

PROVISIONS OF PRINCIPAL ACT AMENDED.

<i>Provision amended.</i>	<i>Amendment.</i>
Section eight ...	... For the words " thirtieth day of September, nineteen hundred and forty-eight " there shall be substituted the words " expiry of section one of the Cinematograph Films Act, 1948 ".
Section nine ...	... In subsection (1), for the words from " the year " to " succeeding years " there shall be substituted the words " any renters' licensing year ".
	In subsection (2), for the words " any exhibitors' quota year " there shall be substituted the words " any quota period ", and for the words " that year," there shall be substituted the words " that period ".
	In subsection (3), at the beginning of the subsection there shall be inserted the words " Subject to the provisions of section five of the Cinematograph Films Act, 1948 ", and at the end of the proviso there shall be added the words " or for the purpose of satisfying themselves as to any matter which is relevant for the purposes of the said section five ".
	In subsection (4), for the word " year " there shall be substituted the words " quota period."
	In subsection (7), for the words " the year " there shall be substituted the words " the quota period " and for the words " that year " there shall be substituted the words " that period ".
Section ten ...	... In subsection (1), for the words from " the period " to " nineteen hundred and forty-eight " there shall be substituted the words " any renters' licensing year ".
Section eleven	... In subsections (1) and (2), the words " under this Part of this Act ", in both places where those words occur, shall be omitted.
	In subsection (2), the words from " the offence " in the first place where those words occur to " exhibitors' quotas and ", the words " or a licence granted under the Act of 1927 for the purposes of section

*Provision amended.*Section eleven—*cont.**Amendment.*1ST SCH.
—*cont.*

twenty of that Act", and the words from "Provided that" to the end of the subsection shall be omitted.

In subsection (3), for the words "this part of this Act" in the first place where those words occur, there shall be substituted the words "the Cinematograph Films Act, 1948"; the words from "in the case of an offence", in the first place where those words occur, to "exhibitors' quotas" shall be omitted; for the words "one year" there shall be substituted the words "two years", and for the words "exhibitors' quota year" there shall be substituted the words "quota period".

In subsection (4), the words from "the expression 'renter's offence'" to "Act of 1927 and" shall be omitted, and for the words "a quota offence under the", in the second place where those words occur, there shall be substituted the words "an offence which is a quota offence by virtue of the Cinematograph Films Act, 1948, or the repealed".

Section twelve

... In subsection (1), for the words from "has" to "distribution" there shall be substituted the words "in any renters' licensing year, delivers for public exhibition at a theatre"; for the words "as soon as practicable, record in a book to be kept by him for the purpose" there shall be substituted the words "keep records of"; in paragraph (a), after the words "British film" there shall be inserted the words "as an exhibitors' quota film", and the word "registered", in the third place where it occurs in the paragraph, shall be omitted; at the end of paragraph (b) there shall be inserted the words "and, in the case of a long film delivered as aforesaid for exhibition on or after the first day of October, nineteen hundred and forty-eight, the rental paid or payable in respect of the exhibition of the film at each of those theatres"; and for the words "the said book" there shall be substituted the words "those records".

In subsection (2), for the words "exhibitors' quota year" and the words "that year", wherever those words occur, there shall be substituted respectively the words "quota period" and "that period"; and in paragraph (a), after the words "British film"

1ST SCH.
—cont.

Provision amended.

Section twelve—cont.

Amendment.

there shall be inserted the words " as an exhibitors' quota film ", and the word " registered ", in the third place where it occurs in the paragraph, shall be omitted ; After subsection (2), there shall be inserted the following subsection :—

" (2A) Any exhibitor who, in any quota period, exhibits as aforesaid films registered as long films shall, in addition to the matters required by the last foregoing subsection to be recorded by him, keep records of the rental paid or payable in respect of each such film so exhibited."

In subsection (3), after the word " by " in the first place where that word occurs, there shall be inserted the words " subsection (2) of " and after the word " book " in the second and third places where that word occurs, there shall be inserted the words " or records ".

In subsection (4), for the words from " who is required " to " so entitled " there shall be substituted the words " fails to comply with any of the requirements of this section ".

Section thirteen ... In subsection (1), the words " on the part of a person " shall be omitted ; for the words " to fulfil any relevant quota conditions " there shall be substituted the words " to comply with any of the requirements of section one of the Cinematograph Films Act, 1948, or with any conditions imposed by a licence in pursuance of section five of that Act " ; and for the words " his control " there shall be substituted the words " the control of any person ".

In subsection (2), for the words " this Part of this Act " there shall be substituted the words " the Cinematograph Films Act, 1948 ", for the words " relevant quota conditions " there shall be substituted the words " requirement of section one of that Act " ; for the words " those conditions " there shall be substituted the words " that requirement " ; and for the words from " but, in the case of a renter " to the end of the subsection there shall be substituted the words " and a failure to exhibit a film in accordance with a condition in that behalf imposed by a licence in pursuance of section five of the Cinematograph Films Act, 1948, shall be deemed to have been

<i>Provision amended.</i>	<i>Amendment.</i>	<i>1ST SCH.</i> <i>—cont.</i>
Section thirteen— <i>cont.</i>	due to circumstances beyond the control of a person if he was not able to acquire the right to exhibit that film on reasonable terms".	
Section seventeen ...	In subsection (1), for the words "thirtieth day of September, nineteen hundred and forty-eight" there shall be substituted the words "expiry of section one of the Cinematograph Films Act, 1948".	
Section eighteen ...	For the words from "the period" to "nineteen hundred and forty-eight" there shall be substituted the words "any renters' licensing year".	
Section twenty ...	In paragraph (a), for the words "end of September, nineteen hundred and forty-eight" there shall be substituted the words "expiry of section one of the Cinematograph Films Act, 1948"; and in paragraph (b), for the words "before the end of March, nineteen hundred and forty-eight" there shall be substituted the words "more than six months before the expiry of the said section one".	
Section twenty-one ...	At the end of the section there shall be inserted the words "or the Cinematograph Films Act, 1948".	
Section twenty-two ...	In subsection (1), for the words "thirtieth day of September, nineteen hundred and forty-eight" there shall be substituted the words "expiry of section one of the Cinematograph Films Act, 1948"; and in paragraph (a) of the proviso to that subsection, for the word "applies" there shall be substituted the words "then applied".	
Section twenty-three	In subsection (1), for the words "end of September, nineteen hundred and forty-eight" there shall be substituted the words "expiry of section one of the Cinematograph Films Act, 1948". In subsection (2), after the words "British film" there shall be inserted the words "an exhibitors' quota film".	
Section twenty-four...	In subsection (3), after the words "this Part of this Act" there shall be inserted the words "or the Cinematograph Films Act, 1948".	

1ST SCH.
—cont.

<i>Provision amended.</i>	<i>Amendment.</i>
Section twenty-five ...	In subsection (1), after the words " only if " there shall be inserted the words " either it is made by or on behalf of a department of His Majesty's Government in the United Kingdom or by or on behalf of the Government of any other part of His Majesty's dominions, or ".
Section twenty-six ...	In subsection (1), for the words from " and subject " to the end of the subsection, there shall be substituted the words " unless the total labour costs of the film are less than ten shillings per foot ".
Section twenty-nine	For the words from " (other than a film " to " a film " in the fourth place where those words occur, there shall be substituted the word " or ".
Section thirty ...	For the words " Part I of this Act " there shall be substituted the words " the Cinematograph Films Act, 1948 "; and the words " renters' quotas and " shall be omitted.
Section thirty-three ...	In subsection (1), for the words " thirtieth day of September, nineteen hundred and forty-eight " there shall be substituted the words " expiry of section one of the Cinematograph Films Act, 1948 "; after the words " British film " there shall be inserted the words " as an exhibitors' quota film "; and the word " registered ", in the fourth place where it occurs, shall be omitted.
Section thirty-four ...	In subsection (1), after the word " making," there shall be inserted the words " renting or exhibiting "; for the words " that business " there shall be substituted the words " the making, renting or exhibition of any films at any place where that business is carried on "; and after the word " employer " there shall be inserted the words " or any organisation representative of persons carrying on the business of making, renting or exhibiting films, as the case may be ".
	In subsection (3), for the words " later date " there shall be substituted the words " other date, not being earlier than the date on which the dispute to which the award relates first arose ".
Section thirty-five ...	For the words " The films to which this Act applies " there shall be substituted the words " Subject to the provisions of section seven of the Cinematograph Films Act, 1948, the films to which this Act and that Act apply "; and the words " by the Board of Education " shall be omitted.

<i>Provision amended.</i>	<i>Amendment.</i>	1ST SCH. —cont.
Section thirty-six ...	In subsection (1), for the words "or of an order under Part III of this Act" there shall be substituted the words "or the Cinematograph Films Act, 1948"; the words "or (b) the price paid or payable for the acquisition of the right to distribute a film in a foreign country" shall be omitted; and after the words "specified in the order" there shall be inserted the words "and any such order may specify different sums in relation to long films and short films respectively".	
Section thirty-seven...	In subsection (3), for the words "any exhibitors' quota year" there shall be substituted the words "any quota period"; for the word "year", in every subsequent place where that word occurs, there shall be substituted the word "period"; and at the end of paragraph (b) of that subsection there shall be inserted the words "or the Cinematograph Films Act, 1948". In subsection (5), at the end of the subsection there shall be added the words "or the Cinematograph Films Act, 1948". In subsection (6), the words "a renters' licence or of", the words "as a renter in Great Britain or carried on business", and the words "as the case may be" shall be omitted, and for the word "year" there shall be substituted the words "quota period".	
Section thirty-eight ...	In subsection (2), after the words "this Act", in the first place where those words occur, there shall be inserted the words "or the Cinematograph Films Act, 1948".	
Section thirty-nine ...	After the words "this Act" there shall be inserted the words "or the Cinematograph Films Act, 1948".	
Section forty ...	In subsection (1), in paragraph (b) for the words "a renters'" there shall be substituted the words "an exhibitors'". In subsection (2), after the words "this Act", in the first place where those words occur, there shall be inserted the words "and of the Cinematograph Films Act, 1948".	
Section forty-one ...	In subsection (1), for the word "twenty-one" there shall be substituted the word "twenty-two"; in paragraph (a), for the word "eleven" there shall be substituted the word "seven"; in paragraph (b), for the word "two" there shall be substituted the word "four" and at the end of the said paragraph there shall be inserted the words	

1ST SCH.
—cont.*Provision amended.*
Section forty-one
—cont.*Amendment.*

“ of whom one shall be appointed as representing makers of films not intended for general exhibition as first feature films ” ; in paragraph (d), for the word “ four ” there shall be substituted the word “ five,” and at the end of the said paragraph there shall be inserted the words “ of whom one shall be appointed as representing exhibitors in Scotland ” ; and in paragraph (e), for the word “ two ” there shall be substituted the word “ four ”, and after the word “ makers ” there shall be inserted the words “ renters or exhibitors ”.

In subsection (2), at the end of the subsection there shall be added the words “ or the Cinematograph Films Act, 1948 ”.

In subsection (6), for the word “ ten ” there shall be substituted the word “ nine ”.

In subsection (7), the words “ the Act of 1927 or ” shall be omitted ; and after the words “ this Act ” there shall be inserted the words “ or the Cinematograph Films Act, 1948 ”.

In subsection (8), the words “ consisting of such members of the Council as it may determine ” shall be omitted.

Section forty-two ... In subsections (1) and (2), after the words “ this Act ”, in both places where those words occur, there shall be inserted the words “ or the Cinematograph Films Act, 1948 ”.

Section forty-three ... After the words “ this Act ” there shall be inserted the words “ or the Cinematograph Films Act, 1948 ”.

Section forty-four ... In subsection (1), after the words “ this Act ” there shall be inserted the words “ and the Cinematograph Films Act, 1948 ” ; after the definition of “ maker ” there shall be inserted the following definition :—

“ ‘ quota period ’ has the meaning assigned to it by the Cinematograph Films Act, 1948, and includes the year ending on the thirtieth day of September, nineteen hundred and forty-eight ” ;

after the definition of “ renter’s licence ” there shall be inserted the following definition :—

“ ‘ renter’s licensing year ’ means a period of twelve months beginning on the first day of April in any year and

<i>Provision amended.</i>	<i>Amendment.</i>	<i>1ST SCH.</i> <i>—cont.</i>
Section forty-four — <i>cont.</i>	ending before the expiry of section one of the Cinematograph Films Act, 1948 ” ; and the definitions of “ exhibitors’ quota year ”, “ foreign country ”, and “ renters’ quota period ”, and in the definition of “ renter ” the words from “ and ” to “ that period ”, shall be omitted. In subsection (4), the words “ in any country or area ”, the words “ in that country or area ” and the word “ therein ” shall be omitted. In subsections (6) and (7), after the words “ this Act ”, in both places where those words occur, there shall be inserted the words “ and of the Cinematograph Films Act, 1948 ”.	
Section forty-five ...	In subsection (6), the words from the beginning to “ this Act ; and ”, in the second place where those words occur, shall be omitted.	
Section forty-six ...	In subsection (3), after the words “ the purposes of this Act ” there shall be inserted the words “ or of the Cinematograph Films Act, 1948 ”.	

PART II.

ENACTMENTS REPEALED.

<i>Enactment.</i>	<i>Extent of Repeal.</i>
The Cinematograph Films Act, 1927. 17 & 18 Geo. 5. c. 29.	The whole Act.
The Cinematograph Films Act, 1938. 1 & 2 Geo. 6. c. 17.	Sections one to seven and fourteen to sixteen, subsection (2) of section twenty, subsections (2) to (7) of section twenty-six, subsection (2) of section thirty-four, subsections (1) and (2) of section thirty-seven, subsections (2) and (3) of section forty-four, subsections (1) to (5) and (7) and (8) of section forty-five, and the First and Third Schedules.

Section 9.

SECOND SCHEDULE.

THE CINEMATOGRAPH FILMS ACT, 1938,
AS AMENDED BY THIS ACT.

[1 & 2 GEO. 6. CH. 17.]

ARRANGEMENT OF SECTIONS.

PART I.

RENTERS' QUOTAS AND EXHIBITORS' QUOTAS.

Section.

General Provisions.

8. Restriction on renting registered films otherwise than at their registered length.
9. Licensing of renters and exhibitors.
10. Provisions for securing that films exhibited in Great Britain are obtained from licensed renters.
11. Penalties for quota offences.
12. Record books to be kept by renters and exhibitors.
13. Relief from liability for quota offences in circumstances beyond control of exhibitor.

PART II.

RESTRICTIONS ON BLIND BOOKING AND ADVANCE
BOOKING OF FILMS.

17. Restriction on blind booking.
18. Restriction on advance booking.
19. Penalties.
20. Invalidation of agreements involving blind booking or advance booking.
21. Information to be furnished by renters to Board of Trade for purposes of Part II.

PART III.

REGISTRATION OF FILMS.

22. Prohibition of distribution or exhibition of unregistered films.
23. Registration of films.
24. Applications for registration, and information to be furnished in connection therewith.
25. Determination of films to be treated as British films for purposes of registration.
26. Registration of British films as exhibitors' quota films.
27. Power to disregard items of labour costs in certain circumstances.
28. Registration of serial films.
29. Prohibition of registration of film exhibited or registered before commencement of Act.
30. Corrections of register.
31. Reference of disputes to High Court or Court of Session.
32. Evidence of registration.
33. Information to be given to exhibitors with respect to registration of films.

PART IV.

PROVISIONS AS TO PERSONS EMPLOYED BY MAKERS
OF CINEMATOGRAPH FILMS.2ND SCH.
—cont.

Section.

34. Wages and conditions of employment of persons employed by makers of cinematograph films.

PART V.

GENERAL AND SUPPLEMENTARY PROVISIONS.

35. Films to which Act applies.
36. Power of Board of Trade to vary by order minimum figures in respect of labour costs.
37. Annual returns to be made by exhibitors.
38. Penalties in connection with the furnishing of information.
39. Offences by corporations.
40. Regulations of Board of Trade.
41. The Cinematograph Films Council.
42. Institution of proceedings and service of process.
43. Exercise of powers of Board of Trade.
44. Interpretation.
45. Transitional provisions.
46. Short title, commencement and extent.

SCHEDULES:

Second Schedule—Maximum Fees.

An Act to make further provision for securing the renting and exhibition of a certain proportion of British cinematograph films, and for restricting blind booking and advance booking of cinematograph films; to make provision as to the wages and conditions of employment of persons employed by makers of cinematograph films; and to provide for purposes connected with the matters aforesaid. [30th March 1938.]

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.

RENTERS' QUOTAS AND EXHIBITORS' QUOTAS.

General Provisions.

8. If, on any occasion on which, during the period beginning at the commencement of this Act, and ending with the expiry of section one of the Cinematograph Films Act, 1948, a registered film is delivered by a renter to an exhibitor in Great Britain for public exhibition at a theatre therein, the length of the film as so delivered on that occasion differs from the registered length of the film by more than one-tenth of that registered length, the renter shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

Restriction on renting registered films otherwise than at their registered length.

2ND SCH.
—cont.
PART I.
—cont.
Licensing of
renters and
exhibitors.

9.—(1) No person shall, in any renters' licensing year, carry on the business of distributing registered films in Great Britain, unless—

- (a) there is in force a licence under this section authorising him to carry on business as a renter, or
- (b) an application for such a licence as aforesaid in respect of that year has been duly made, and the determination of the application is still pending;

and if any person carries on business in contravention of this subsection, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which he so carries on business.

(2) No exhibitor shall, in any quota period, exhibit a registered film to the public at a theatre in Great Britain, unless at the time of the exhibition—

- (a) there is in force a licence under this section authorising him to carry on business as an exhibitor at that theatre, or
- (b) an application for such a licence as aforesaid in respect of that period has been duly made, and the determination of the application is still pending;

and if any exhibitor exhibits a film at any theatre in contravention of this subsection, he shall be liable on summary conviction to a fine not exceeding ten pounds for every day on which he so exhibits the film at that theatre.

(3) Subject to the provisions of section five of the Cinematograph Films Act, 1948, a licence authorising a person to carry on business as a renter in Great Britain or, as the case may be, to carry on business as an exhibitor in Great Britain shall, upon application made in that behalf by the said person, and on payment of the prescribed fee, be granted to him by the Board of Trade, unless he is disqualified for holding the licence applied for:

Provided that the Board of Trade may refuse to grant such a licence, unless the applicant has furnished to the Board such information, verified in such manner, as they may reasonably require for the purpose of satisfying themselves that he is not so disqualified, or for the purpose of satisfying themselves as to any matter which is relevant for the purposes of the said section five.

(4) Subject as hereinafter provided, a licence under this section authorising a person to carry on business as an exhibitor shall be limited so as to extend only to the exhibition of registered films at such one theatre in Great Britain as may be specified in the licence:

Provided that such a licence as aforesaid may be granted so as to extend to the exhibition of registered films at more than one theatre in Great Britain, subject to the limitation that the licence does not authorise the holder thereof to exhibit registered films at any one theatre on more than six days in the quota period in respect of which the licence is granted, or to exhibit registered films at more than one theatre at the same time.

(5) Without prejudice to the following provisions of this Part of this Act, a person shall be disqualified for holding a licence under this section unless he has a place of business in Great Britain.

2ND SCH.
—cont.
PART I.
—cont.

(6) Where the holder of a licence under this section which is for the time being in force changes the address of his place of business in Great Britain, or ceases to have a place of business in Great Britain, he shall, as soon as practicable, notify to the Board of Trade the change of address or, as the case may be, the fact that he has ceased to have such a place of business.

(7) Subject as hereinafter provided, a licence under this section shall take effect on such day, not being earlier than the beginning of the quota period in respect of which it is granted, as may be specified in the licence, and shall continue in force until the end of that period and no longer:

Provided that if, after the granting of such a licence, the holder of the licence becomes disqualified for holding it, the licence shall forthwith cease to have effect.

10.—(1) An exhibitor shall not, in any renters' licensing year, exhibit on any occasion to the public at a theatre in Great Britain any film to which this Act applies, unless—

Provisions for securing that films exhibited in Great Britain are obtained from licensed renters.

- (a) he has acquired the right to exhibit the film to the public at that theatre on that occasion from a person who, at the time of the acquisition, was lawfully carrying on business as a renter in Great Britain, or
- (b) the exhibitor is himself lawfully carrying on business as aforesaid, and has acquired the film for distribution in Great Britain.

(2) If any person exhibits a film in contravention of this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which he so exhibits the film.

11.—(1) Any person guilty of a quota offence shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty pounds or, on conviction on indictment, to a fine not exceeding five hundred pounds.

Penalties for quota offences.

(2) Where a person is convicted, on indictment, of a quota offence, then, in addition to imposing such a fine as aforesaid, the court, if the offender has previously been convicted of an exhibitor's offence not less than twice (whether summarily or on indictment), may revoke any exhibitor's licence held by him in respect of the theatre in relation to which the offence has occurred, and may order, with respect to—

- (i) the offender,
- (ii) any person who, at or since the time when the offence occurred, was or has been financially associated with the offender in his business as an exhibitor, or
- (iii) any person concerned in the management of the offender's said business who was knowingly a party to the offence,

that he shall, for such period as may be specified in the order, be disqualified for holding an exhibitor's licence in respect of that theatre, and may also order that every person in whose case an

2ND SCH.

—cont.

PART I.

—cont.

exhibitor's licence has been revoked during the year immediately preceding the date of the conviction, shall, for such period as may be specified in the order, be so disqualified.

(3) Notwithstanding anything in the Summary Jurisdiction Acts, summary proceedings for a quota offence under the Cinematograph Films Act, 1948, may be instituted at any time within two years after the end of the quota period in relation to which the offence has occurred.

(4) In this section the expression " exhibitor's offence " means an offence which is a quota offence by virtue of the Cinematograph Films Act, 1948, or the repealed provisions of this Part of this Act relating to exhibitors' quotas, or an offence under section nineteen of the Act of 1927.

Record books
to be kept
by renters and
exhibitors.

12.—(1) Any renter who, in any renters' licensing year, delivers for public exhibition at a theatre in Great Britain a film which is a registered film shall keep records of—

- (a) the title and registered length of the film, the fact that it is registered as a British film, as an exhibitors' quota film or as a foreign film, as the case may be, and such other particulars with respect to the film as may be prescribed for the purpose of identification, and
- (b) the theatres in Great Britain for public exhibition at which he delivers the film to exhibitors, and the respective dates on which, or periods for which, the film is to be, or has been, exhibited to the public at those theatres on delivery as aforesaid, and, in the case of a long film delivered as aforesaid for exhibition on or after the first day of October, nineteen hundred and forty-eight, the rental paid or payable in respect of the exhibition of the film at each of those theatres;

and shall, whenever requested so to do by a person authorised in that behalf by the Board of Trade, produce those records for inspection by that person.

(2) Any exhibitor who, in any quota period exhibits a registered film to the public at a theatre in Great Britain shall, as soon as practicable, record in a book to be kept by him for the purpose in respect of that theatre—

- (a) the title and registered length of the film, the fact that it is registered as a British film, as an exhibitors' quota film or as a foreign film, as the case may be, and such other particulars with respect to the film as may be prescribed for the purpose of identification, and
- (b) the dates in that period on which the film was exhibited to the public at that theatre, and, in relation to each of those dates, the number of times the film was so exhibited and the respective hours at which the exhibition of cinematograph films to the public at that theatre began and ended:

Provided that an exhibitor who does not, in any quota period, exhibit registered films to the public at any one theatre in Great

Britain on more than six days nor at more than one such theatre at the same time, shall not be obliged to keep under this subsection more than one book in respect of the theatres at which he so exhibits registered films in that period.

2ND SCH.

—cont.

PART I.

—cont.

(2A) Any exhibitor who, in any quota period, exhibits as aforesaid films registered as long films, shall, in addition to the matters required by the last foregoing subsection to be recorded by him, keep records of the rental paid or payable in respect of each such film so exhibited.

(3) Any book which an exhibitor is required by subsection (2) of this section to keep in relation to a particular theatre shall, so long as he continues to carry on the business of exhibiting registered films to the public at that theatre, be kept by him at that theatre and be open to inspection thereat, at all reasonable times, by any person authorised in that behalf by the Board of Trade; and, subject to the preceding provisions of this subsection, an exhibitor who is required to keep a book or records under this section shall, whenever requested so to do by a person authorised in that behalf by the Board, produce the book or records for inspection by that person.

(4) If any person fails to comply with any of the requirements of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

13.—(1) If, upon application made to them, the Board of Trade are satisfied that any failure to comply with any of the requirements of section one of the Cinematograph Films Act, 1948, or with any conditions imposed by a licence in pursuance of section five of that Act, was due to circumstances beyond the control of any person, the Board may issue a certificate to that effect:

Relief from liability for quota offences in circumstances beyond control of exhibitor.

Provided that, where any application is made under this subsection to the Board, they shall, before determining the application, consult the Cinematograph Films Council and consider its advice in the matter.

(2) For the purposes of the Cinematograph Films Act, 1948, a failure on the part of a person to fulfil any requirement of section one of that Act shall be deemed to have been due to circumstances beyond the control of that person if, owing to the character of the films available or to the excessive cost of such films, it was not commercially practicable to fulfil that requirement; and a failure to exhibit a film in accordance with a condition in that behalf imposed by a licence in pursuance of section five of the Cinematograph Films Act, 1948, shall be deemed to have been due to circumstances beyond the control of a person if he was not able to acquire the right to exhibit that film on reasonable terms.

PART II.

RESTRICTIONS ON BLIND BOOKING AND ADVANCE BOOKING OF FILMS.

17.—(1) No renter shall, in the period beginning at the commencement of this Act and ending with the expiry of section one of the Cinematograph Films Act, 1948, procure the giving by an exhibitor (whether for a consideration or not, and whether orally or in writing) of any such undertaking as would, if it were legally binding on the exhibitor, impose on him an obligation, either actual or contingent, to take delivery of a film to which this Act applies, for public

Restriction on blind booking.

2ND SCH.

—cont.

PART II.

—cont.

exhibition at a theatre in Great Britain, being a film which had not been trade-shown at the time of his giving the undertaking:

Provided that this subsection shall not operate so as to restrict—

- (a) in relation to any serial film or series of films the making, at a time when at least three parts of the film or series have been trade-shown, of an agreement for the public exhibition of any part thereof,
- (b) the making, in relation to any one film, of an agreement for the exhibition of that film at one theatre only and on a number of consecutive days, or
- (c) the making, in relation to any one film, of agreements for the exhibition of that film on not more than three days and at not more than three theatres.

(2) Where, in relation to any one film, there have been made, at a time when that film has not been trade-shown, several agreements the purport of which taken together is to provide for the public exhibition of that film in Great Britain either at more than one theatre or otherwise than on consecutive days, the benefit of paragraph (b) of the proviso to the preceding subsection shall not extend to any of those agreements; and where, in relation to any one film, there have been made, at a time when that film has not been trade-shown, several agreements the purport of which taken together is to provide for the public exhibition of the film in Great Britain either on more than three days or at more than three theatres, the benefit of paragraph (c) of the said proviso shall not extend to any of those agreements.

In relation to any film being a part of a serial film or series of films, the preceding provisions of this subsection shall have effect as if, in those provisions, for the words "when that film has not been trade-shown," in each place where those words occur, there were substituted the words "before three parts of that serial film or series of films have been trade-shown."

Restriction
on advance
booking.

18. No renter shall, in any renters' licensing year, procure the giving by an exhibitor (whether for a consideration or not, and whether orally or in writing) of any such undertaking as would, if it were legally binding on the exhibitor, impose on him an obligation, either actual or contingent, to take delivery of a film to which this Act applies for public exhibition at a theatre in Great Britain at a date later than six months after the date on which he gives the undertaking:

Provided that, in relation to any serial film or series of films, this section shall not operate so as to restrict the making of an agreement in so far as it provides for any part of the film or series being exhibited after three parts thereof have been exhibited to the public at a theatre in Great Britain.

Penalties.

19. If any renter contravenes any of the provisions of this Part of this Act, he shall be liable on summary conviction to a fine not exceeding two hundred and fifty pounds.

Invalidation of
agreements
involving
blind booking
or advance
booking.

20. Any agreement made after the commencement of this Act (whether in Great Britain or elsewhere) shall be invalid, if and so far as—

- (a) in the case of an agreement made before the expiry of section one of the Cinematograph Films Act, 1948, it purports to

impose on any exhibitor an obligation, either actual or contingent, to take delivery of a film to which this Act applies for public exhibition at a theatre in Great Britain, being a film which has not been trade-shown at the time of the making of the agreement, or

- (b) in the case of an agreement made more than six months before the expiry of the said section one, it purports to impose on any exhibitor an obligation, either actual or contingent, to take delivery of a film to which this Act applies for public exhibition at a theatre in Great Britain at a date later than six months after the date on which the agreement is made:

2ND SCH.
—cont.
PART II.
—cont.

Provided that the preceding provisions of this subsection shall not apply in relation to any agreement the making of which is unrestricted by virtue of the proviso to subsection (1) of section seventeen of this Act or the proviso to section eighteen of this Act, as the case may be.

21. A renter shall, whenever requested so to do by a person authorised in that behalf by the Board of Trade, produce to that person such books or other documents, and furnish to that person such other information, with respect to any film delivered or to be delivered by him to any exhibitor in Great Britain for public exhibition therein, being a film to which this Act applies, as the Board may require for the purpose of the enforcement of this Part of this Act or the Cinematograph Films Act, 1948.

Information to be furnished by renters to Board of Trade for purposes of Part II.

PART III.

REGISTRATION OF FILMS.

22.—(1) No person shall, in the period beginning at the commencement of this Act and ending with the expiry of section one of the Cinematograph Films Act, 1948, deliver to an exhibitor in Great Britain for public exhibition therein any film to which this Act applies, unless, at the time of the delivery, the film is a registered film; and no person shall, in the said period, exhibit to the public at a theatre in Great Britain any film to which this Act applies, being a film which he knows, or ought to have known, not to be a registered film:

Prohibition of distribution or exhibition of unregistered films.

Provided that this subsection shall not restrict the delivery or exhibition, in pursuance of a valid agreement for its exhibition at one theatre only on a number of consecutive days, of a film in respect of which a provisional application for registration has been made, if the film is trade-shown within six weeks from the date on which the application was made, and shall not restrict—

- (a) the delivery or exhibition of any film which has been exhibited in Great Britain to exhibitors or to the public before the commencement of this Act, other than a film which was first so exhibited after the end of September nineteen hundred and twenty-seven and is a film to which the Act of 1927 then applied, or
- (b) the delivery or exhibition, in pursuance of valid agreements for its exhibition on not more than three days and at not more than three theatres, of a film which, at the time of the delivery or exhibition, has not been trade-shown.

C*

2ND SCH.
—cont.
PART III.
—cont.

(2) If any person delivers a film in contravention of this section, he shall be liable on summary conviction to a fine not exceeding two hundred and fifty pounds; and if any person exhibits a film in contravention of this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which he so exhibits the film.

Registration
of films.

23.—(1) Upon application duly made to them, not later than the expiry of section one of the Cinematograph Films Act, 1948, for the registration of a film to which this Act applies, the Board of Trade shall, subject to the following provisions of this Part of this Act, register the film under this Part of this Act in a register to be kept by the Board for the purpose.

(2) The register shall be so kept as to record, in relation to each film registered therein,—

(a) the title and length of the film, the fact that it is a British film, an exhibitors' quota film or a foreign film, as the case may be, and such other particulars (if any) with respect to the film as may be prescribed for the purpose of identification, and

(b) such other particulars with respect to the film as are required by the following provisions of this Part of this Act to be entered in the register.

(3) On the registration of a film under this Part of this Act, the Board of Trade shall issue to the person on whose application the film is registered a certificate of registration specifying all the particulars which, at the time of the issue of the certificate, are recorded in the register with respect to that film.

(4) As soon as may be after the end of the week beginning at the commencement of this Act, and of each subsequent week, the Board of Trade shall publish in the Board of Trade Journal a list of films registered in that week.

(5) The register shall, at all reasonable times, be open to inspection by any person at the offices of the Board of Trade, on payment of the prescribed fee, and any person inspecting the register may take copies of any entries therein.

(6) The Board of Trade shall, on demand made in that behalf by any person and on payment of the prescribed fee, furnish that person with a copy of the entry in the register relating to any particular film, being a copy certified to be true by the officer of the Board of Trade having the custody of the register.

Applications
for registration,
and informa-
tion to be
furnished in
connection
therewith.

24.—(1) Every application for the registration of a film shall be made either by the maker of the film or by a renter who has acquired it for distribution in Great Britain, and shall be accompanied by the prescribed fee.

(2) No such application as aforesaid shall be entertained unless the film which is the subject of the application has been trade-shown within the fourteen days immediately preceding the date on which the application is made:

Provided that—

(a) a provisional application may be made before the film has been trade-shown, and in that case, if the film is trade-shown

within six weeks after the date on which the provisional application is made, the provisional application shall thereupon be treated as if it had been made within fourteen days after the film was trade-shown; and

- (b) an application made more than fourteen days after the film was trade-shown may be entertained by the Board of Trade if they are satisfied that the delay was due to special circumstances and was not intentional.

(3) The applicant for the registration of a film, and if the applicant is not the maker of the film, the maker, shall produce to the Board of Trade such books and other documents relating to the film, and furnish to the Board such other information with respect thereto, as the Board may require for the proper discharge of their functions under this Part of this Act or the Cinematograph Films Act, 1948, in relation to that film and any information furnished for the purposes of this subsection shall, if the Board so direct, be accompanied by a statutory declaration as to the truth of the information, being a declaration made by the person furnishing the information:

Provided that an application for the registration of a film shall not be granted, unless and until there has been furnished to the Board of Trade a statutory declaration made by the applicant to the effect that there has not been made, in relation to that film, any such agreement as is declared by Part II of this Act to be invalid in any respect.

25.—(1) Subject to the following provisions of this section, a film shall, for the purpose of the registration thereof under this Part of this Act, be deemed to be a British film if, and only if either it is made by or on behalf of a department of His Majesty's Government in the United Kingdom, or by or on behalf of the Government of any other part of His Majesty's dominions, or—

- (a) the maker of the film was, throughout the time during which the film was being made, either a British subject or a British company, and
- (b) the studio, if any, used in making the film was within His Majesty's dominions, and
- (c) not less than the requisite amount of labour costs represents payments paid or payable in respect of the labour or services of British subjects or persons domiciled in some part of His Majesty's dominions.

(2) In paragraph (a) of the preceding subsection the expression "a British company" means a company incorporated under the laws of any part of His Majesty's dominions, being a company the directors of which, or the majority of the directors of which, were British subjects; and for the purposes of paragraphs (a) and (c) of that subsection, any film used for making photographs depicted as part of any scene in the film which is the subject of the application for registration, shall be deemed to form part of the last-mentioned film; and in paragraph (c) of that subsection the expression "the requisite amount of labour costs" means, in relation to any film—

- (a) (in a case where the total labour costs of the film amount to not less than thirty-three thousand seven hundred and

2ND SCH.
—cont.
PART III.
—cont.

Determination
of films to
be treated as
British films
for purposes
of registration.

2ND SCH.
—cont.
PART III.
—cont.

fifty pounds, and the quotient derived from dividing the amount of the said total labour costs by the number of feet comprised in the length of the film is a sum of not less than four pounds ten shillings) whichever of the two following amounts is the less, that is to say—

(i) the amount arrived at by applying the fraction three-quarters to the total labour costs of the film, after deducting therefrom, if the applicant for registration so desires, the amount of any payment which, as part of those costs, has been paid or is payable in respect of the labour or services of any one person who was, while engaged in the making of the film, neither a British subject nor a person domiciled in some part of His Majesty's dominions;

(ii) the amount arrived at by applying the fraction four-fifths to the total labour costs of the film, after deducting therefrom the amount of any payments which, as part of those costs, have been paid or are payable in respect of the labour or services of any two persons neither of whom was, while engaged in the making of the film, a British subject or a person so domiciled, and at least one of whom was so engaged in the capacity of an actor or actress, or

(b) in any other case, the amount arrived at under sub-paragraph (i) of the preceding paragraph:

Provided that if, upon the application for the registration, as a British film, of a film in respect of which the condition imposed by paragraph (c) of the preceding subsection is not fulfilled, the Board of Trade are satisfied that the maker of the film took all reasonable steps to fulfil the said condition, and that the non-fulfilment thereof was due to exceptional circumstances beyond his control, the Board, if they think fit, may direct that this subsection shall have effect in relation to that film as if in paragraph (a) of this subsection for the words "three-quarters" and the words "four-fifths" there were respectively substituted the words "seven-tenths" and the words "three-quarters."

(3) If, upon an application for the registration of a film as a British film, the applicant requests the Board of Trade so to do, the Board shall, for the purpose of determining whether the conditions imposed by this section are fulfilled in respect of the film, treat the film as if such portions thereof as may be designated by the applicant, being portions the length of which does not exceed in all ten per cent. of the total length of the film or twenty per cent. of so much of its total length as consists of photographs of studio scenes (whichever percentage is the less), did not form part of the film; and in that case the length of the film shall, for the purpose of the registration thereof, be deemed to be reduced by the length of the portions of the film which, by virtue of this subsection, are to be treated as not forming part of the film.

(4) Every film registered under this Part of this Act shall, if the conditions imposed by subsection (1) of this section are fulfilled in respect of the film, be registered as a British film, or, if those conditions are not so fulfilled, be registered as a foreign film.

26.—(1) Every film registered under this Part of this Act as a British film shall be registered as an exhibitors' quota film, unless the total labour costs of the film are less than ten shillings per foot.

2ND SCH.
—*cont.*
PART III.
—*cont.*

Registration of British films as exhibitors' quota films.

27. If, upon any application for the registration of a film under this Part of this Act, being an application in connection with which it is material to ascertain—

Power to disregard items of labour costs in certain circumstances.

- (a) the labour costs of the film, or
- (b) the proportion of those costs which represents payments in respect of the labour or services of persons of any particular class,

it appears to the Board of Trade that any sum which, as part of those costs, is paid or payable in respect of the labour or services of any particular person is so great as not to be a bona fide payment by way of remuneration for the labour or services in question, the Board may direct that the said sum shall, as to the whole or any part of the amount thereof, be disregarded in ascertaining the said labour costs or the said proportion thereof, as the case may be.

28.—(1) Subject to the provisions of the following subsection, an application for the registration of any part of a serial film or series of films may be entertained if three parts of the film or series have been trade-shown.

Registration of serial films.

(2) The Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, may by order direct that the preceding subsection shall not apply in relation to any such application for registration as aforesaid which may be made during the continuance in force of the order; and any order under this subsection may be revoked by a subsequent order of the Board.

(3) If an order is made under the last preceding subsection, any provision contained in Part II of this Act which qualifies, in relation to any serial film or series of films, a restriction imposed by that Part of this Act shall operate so as to qualify that restriction in relation only to the exhibition of such parts (if any) of a serial film or series of films as are not the subject of applications for registration made during the continuance in force of the order.

29. A film which has been exhibited in Great Britain to the public before the commencement of this Act or which has been duly registered under Part II of the Act of 1927 shall not be registered under this Part of this Act:

Prohibition of registration of film exhibited or registered before commencement of Act.

Provided that for the purposes of this section a film shall not be taken to have been exhibited to the public by reason only that the film has been trade-shown.

30. If, at any time after the registration of a film, the Board of Trade, upon making any such inquiries as they think desirable, are satisfied that the film either ought not to have been registered

Corrections of register.

2ND SCH.
—*cont.*
PART III.
—*cont.*

or is incorrectly registered in any particular, they shall cause the necessary deletion or correction to be made in the register and if, the Board think proper, issue to the maker of the film, or, if the film has been acquired by a renter for distribution in Great Britain, issue to the renter, a certificate of registration to take the place of any such certificate previously issued in respect of the film; but the Board, if in any particular case they think fit so to do, may direct that, for the purpose of any of the provisions of the Cinematograph Films Act, 1948, relating to exhibitors' quotas, the film shall, to such extent as may be specified in the direction, be treated as if the deletion or correction in the register had not been made.

Reference of
disputes to
High Court
or Court of
Session.

31.—(1) Any person who is aggrieved by any decision taken by the Board of Trade for the purpose of the performance of their duties in relation to the register, may, subject to rules of court, make application in the matter to the High Court, and the decision of that court on any such application shall be final and not subject to appeal to any other court.

(2) In relation to any person whose principal place of business is in Scotland, the preceding subsection shall have effect as if for any reference therein to the High Court there were substituted a reference to the Court of Session.

Evidence of
registration.

32. The registration of a film may be proved by the production of—

- (a) a copy of the Board of Trade Journal containing a notification of the registration of the film, or
- (b) the certificate of registration issued, or, as the case may be, last issued in respect of the film, or
- (c) a copy of the entry in the register relating to the film, being a copy certified to be true by the officer having the custody of the register;

and a document purporting to be such a certificate of registration, or to be such a certified copy as aforesaid, shall be evidence of the matters stated in the document, without proof of the signature or authority of the person signing it.

Information
to be given
to exhibitors
with respect
to registration
of films.

33.—(1) A renter who, in the period beginning at the commencement of this Act and ending with the expiry of section one of the Cinematograph Films Act, 1948, delivers a registered film to an exhibitor in Great Britain for public exhibition therein shall, in such manner, and at such time, as may be prescribed, notify to the exhibitor the title and registered length of the film, the fact that it is registered as a British film, as an exhibitor's quota film or as a foreign film, as the case may be, and any such other particulars for the time being recorded in the register with respect to the film as may be prescribed.

(2) If any renter fails to comply with the provisions of this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

PART IV.

2ND SCH.
—cont.PROVISIONS AS TO PERSONS EMPLOYED BY MAKERS OF
CINEMATOGRAPH FILMS.

34.—(1) The wages paid by any person carrying on in Great Britain the business of making, renting or exhibiting films to which this Act applies to persons employed by him in connection with the making, renting or exhibition of any films at any place where that business is carried on, and the conditions of employment of persons so employed, shall, unless agreed upon by the employer or any organisation representative of persons carrying on the business of making, renting or exhibiting films, as the case may be and by organisations representative of the persons employed, be not less favourable to the person employed than the wages which would be payable, and the conditions which would have to be observed, under a contract which complied with the requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government departments; and if any dispute arises as to what wages ought to be paid, or what conditions ought to be observed, in accordance with this section, it shall, if not otherwise disposed of, be referred by the Board of Trade to the industrial court for settlement.

Wages and conditions of employment of persons employed by makers of cinematograph films.

(3) Where any award has been made by the industrial court upon a dispute referred to that court under this section, then, as from the date of the award or from such other date, not being earlier than the date on which the dispute to which the award relates first arose as the court may direct, it shall be an implied term of the contract between the employer and workers to whom the award applies that the rate of wages to be paid, or the conditions of employment to be observed, under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

PART V.

GENERAL AND SUPPLEMENTARY PROVISIONS.

35. Subject to the provisions of section seven of the Cinematograph Films Act, 1948, the films to which this Act and that Act apply are all cinematograph films other than—

Films to which Act applies.

- (a) films consisting wholly or mainly of photographs which, at the time when they were taken, were means of communicating news, or
- (b) films made wholly or mainly for the purpose of commercial advertisement, or
- (c) films certified under subsection (2) of section seven of the Finance Act, 1935, as being entitled to exemption from customs duties under the convention for facilitating the international circulation of films of an educational character which is referred to in that subsection.

25 & 26 Geo. 5.
c. 24.

36.—(1) The Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, may lay before Parliament the draft of an order directing that any provisions of this Act or the Cinematograph Films Act, 1948, which specify a sum to which the labour costs of a film, or the quotient

Power of Board of Trade to vary by order minimum figures in respect of labour costs.

2ND SCH.
—cont.
PART V.
—cont.

arrived at by dividing the amount of the labour costs of the film by the length thereof, must amount for any particular purpose, shall have effect as if for any reference in those provisions to the said sum there were substituted a reference to such other sum as may be specified in the order and any such order may specify different sums in relation to long films and short films respectively; and if each House of Parliament resolves that the order be made, the Board shall make the order in terms of the draft, and the order shall come into operation on such date as may be specified therein.

(2) The power conferred by the preceding subsection to lay in draft before Parliament and to make an order shall be construed as including a power, exercisable in the like manner and subject to the like condition, to lay in draft before Parliament and to make an order varying or revoking an order having effect by virtue of that subsection.

Annual returns
to be made by
exhibitors.

37.—(3) Every person who has, in any quota period, carried on business as an exhibitor at a theatre in Great Britain, shall, within one month after the end of that period, furnish to the Board of Trade a return stating whether or not he has in that period exhibited to the public at a theatre in Great Britain a film which is a registered film, and, if so—

- (a) specifying the dates in that period on which any registered film was exhibited by him to the public at that theatre, and, in relation to each of those dates, the number of times the film was so exhibited, and
- (b) giving such other particulars (if any) with respect to the film as may be prescribed, being particulars which the Board consider necessary for the purposes of this Act or the Cinematograph Films Act, 1948;

and the said return shall include a statement showing, in relation to each day in the said period on which cinematograph films were exhibited to the public at that theatre, the respective times at which the exhibition of films as aforesaid began and ended:

Provided that, if in any such period an exhibitor ceases to carry on the business of exhibiting registered films to the public at any particular theatre in Great Britain, the return to be made by him with respect to that theatre for that period shall be made within one month after the date on which he so ceases to carry on that business at that theatre.

(4) A return required by this section shall be deemed not to have been furnished in compliance with this section unless it is accompanied by a statutory declaration of the truth of the particulars contained in the return, being a declaration made by the person required to furnish the return.

(5) Every person by whom a return has been made to the Board of Trade in pursuance of this section, shall produce and furnish to the Board such books and other documents and other information by way of explanation of the return as the Board may require for the purposes of this Act or the Cinematograph Films Act, 1948.

(6) For the purposes of any proceedings which may be taken by virtue of this section, the fact that a person has been the holder of an exhibitor's licence shall be evidence that the said person has, in the quota period in respect of which the licence was granted, carried on business as an exhibitor at a theatre in Great Britain.

2ND SCH.
—cont.
PART V.
—cont.

38.—(1) If any person fails to produce, furnish or give to the Board of Trade, in accordance with the requirements of this Act, any book or other document, or any return, notification or other information, which he is required by this Act so to produce, furnish or give, he shall be liable, on summary conviction, to a fine not exceeding five pounds for every day during which the default continues.

Penalties in
connection
with the
furnishing of
information.

(2) Any person who, in furnishing or giving any return, notification or other information for the purposes of any provisions of this Act, or the Cinematograph Films Act, 1948, or, in recording any particulars in pursuance of this Act, knowingly or recklessly makes a statement false in a material particular, shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

39. Where a body corporate is guilty of an offence under this Act or the Cinematograph Films Act, 1948, and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by
corporations.

40.—(1) Subject to the following provisions of this section, the Board of Trade may make regulations prescribing anything which by this Act is required or authorised to be prescribed, and may make regulations prescribing—

Regulations
of Board of
Trade.

- (a) the form of applications for the registration of films or for licences under this Act,
- (b) the particulars and evidence necessary for satisfying the Board that a film is a British film or is a film which ought to be registered under Part III of this Act as an exhibitors' quota film, and
- (c) the form of the returns to be made, and the record books to be kept, under this Act,

and also regulations providing that any statutory declaration which a person is required by this Act to make shall be deemed to be properly made if it is made on his behalf by any such person as may be specified in the regulations; but no such regulations prescribing the payment of fees shall be of any effect unless those regulations have been made with the consent of the Treasury.

(2) Any regulations prescribing the amount of any fees shall be so framed as to secure, as nearly as may be, that the aggregate amount produced by those fees will be equal to the amount of the

2ND SCH.
—*cont.*
PART V.
—*cont.*

expenses incidental to the carrying out of this Act and of the Cinematograph Films Act, 1948, and the carrying out of the Act of 1927 after the commencement of this Act; but the amount of the fees payable on applications for the registration of films or for licences under this Act shall not exceed the amounts specified in the Second Schedule to this Act.

The Cinematograph Films Council.

41.—(1) There shall be a council to be called "the Cinematograph Films Council," consisting of twenty-two members appointed by the Board of Trade; and of the members of the said Council—

- (a) seven (of whom one shall be the chairman of the Council) shall be persons appointed as being independent persons,
- (b) four shall be persons appointed as representing makers of British films, of whom one shall be appointed as representing makers of films not intended for general exhibition as first feature films,
- (c) two shall be persons appointed as representing renters,
- (d) five shall be persons appointed as representing exhibitors, of whom one shall be appointed as representing exhibitors in Scotland, and
- (e) four shall be persons appointed as representing persons employed by makers, renters or exhibitors of British films.

(2) It shall be the duty of the Board of Trade to satisfy themselves, with respect to any person whom they propose to appoint under paragraph (a) of the preceding subsection to be a member of the said Council, or who is a member of the Council by virtue of an appointment made under that paragraph, that he will have or has, as the case may be, no such financial or commercial interest as is likely to affect him in the discharge of his functions as a member of the Council; and any such person shall, whenever requested by the Board so to do, furnish to them such information as they consider necessary for the performance of their duty under this subsection.

Before appointing a person to be a representative member of the said Council, the Board of Trade shall consult such bodies, if any, as appear to the Board to be representative of the interest concerned.

The Board of Trade shall not appoint to be a member of the said Council any person who has been convicted of an offence under the Act of 1927 or this Act or the Cinematograph Films Act, 1948.

(3) The functions of the said Council shall be—

- (a) to keep under review the progress of the cinematograph film industry in Great Britain, with particular reference to the development of that branch of the said industry which is engaged in the making of films, and to report thereon to the Board of Trade at such times as the Council thinks fit,
- (b) to advise the Board in any matter relating to the cinematograph film industry in which the advice of the Council is sought by the Board (whether at the request of any persons appearing to the Board to have a substantial interest in the matter or otherwise), and

(c) to make to the Board, as soon as may be after the end of the year beginning at the commencement of this Act and each subsequent year, a report of the proceedings of the Council during that year.

2ND SCH.
—cont.
PART V.
—cont.

(4) As soon as may be after receiving any report made to them under paragraph (c) of the last preceding subsection, the Board of Trade shall lay copies of the report before Parliament.

(5) The Board of Trade shall furnish to the said Council such information as the Council may reasonably require for the proper discharge of its functions.

(6) The quorum of the said Council shall be such number, not being less than nine, as the Board of Trade may determine, and the Council shall have power to regulate its own procedure, and may act notwithstanding a vacancy among the members thereof.

(7) A member of the said Council shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, and a member of the Council who ceases to hold office shall be eligible for re-appointment; but no person shall, on any occasion, be appointed to be a member of the Council for more than three years:

Provided that, if any member of the said Council is convicted of an offence under this Act or the Cinematograph Films Act, 1948, his office as a member of the Council shall forthwith become vacant.

(8) The said Council may, subject to any such limitations and conditions as it thinks proper, delegate any of its functions to a committee of the Council.

42.—(1) Proceedings for an offence under this Act or the Cinematograph Films Act, 1948, shall not, in England, be instituted otherwise than by the Board of Trade.

Institution of proceedings and service of process.

(2) Any process to be served on any person for the purposes of this Act or the Cinematograph Films Act, 1948, shall, if that person is out of Great Britain but has a place of business in Great Britain, be deemed to be duly served if it is addressed to that person and left at, or sent by post to, that place of business.

43. Anything required or authorised by or under this Act or the Cinematograph Films Act, 1948, to be done by, to or before the Board of Trade, may be done by, to or before the President of the Board, any secretary, under-secretary, or assistant-secretary of the Board, or any person authorised in that behalf by the President.

Exercise of powers of Board of Trade.

44.—(1) In this Act and the Cinematograph Films Act, 1948, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“ the Act of 1927 ” means the Cinematograph Films Act, 1927; 17 & 18 Geo. 5. c. 29.

“ the Cinematograph Films Council ” means the Cinematograph Films Council constituted under this Part of this Act;

“ exhibitor ” means a person carrying on the business of exhibiting cinematograph films to the public;

2ND SCH.
—cont.
PART V.
—cont.

- “ exhibitor’s licence ” means, in relation to any person, a licence under Part I of this Act authorising him to carry on business as an exhibitor;
- “ labour costs,” in relation to a film, means the total amount of the payments paid or payable by the maker of the film in respect of the labour or services of persons directly engaged in the making of the film, in so far as those payments are attributable to the making of that film, but does not include payments in respect of copyright; and for the purposes of this definition—
- (a) the author of the scenario of a film shall be deemed to be a person directly engaged in the making of the film, and
- (b) a person shall not be taken to be directly engaged in the making of a film by reason only—
- (i) that he is financially interested in the making of a film, or is engaged, in an administrative or clerical capacity, as an officer or servant of an undertaking concerned with the making of the film, or
- (ii) that he supplies goods used in the making of the film or is in the employment of a person who supplies goods;
- “ long film ” means a film the length of which is not less than three thousand feet;
- “ maker,” in relation to a film, means the person by whom the arrangements necessary for the making of the film are undertaken;
- “ quota period ” has the meaning assigned to it by the Cinematograph Films Act, 1948, and includes the year ending on the thirtieth day of September, nineteen hundred and forty-eight;
- “ the register ” means the register of films registered under Part III of this Act, and “ registration ” means registration under that Part of this Act;
- “ registered ” means registered either under Part III of this Act or under Part II of the Act of 1927;
- “ registered length,” in relation to a film, means the length of the film as registered for the time being;
- “ renter ” means a person who carries on the business of distributing cinematograph films to exhibitors;
- “ renter’s licence ” means, in relation to any person, a licence under Part I of this Act authorising him to carry on business as a renter;
- “ renters’ licensing year ” means a period of twelve months beginning on the first day of April in any year and ending before the expiry of section one of the Cinematograph Films Act, 1948;
- “ serial film or series of films ” means a serial film or series of films consisting of a number of parts not exceeding thirteen,

each of which does not exceed two thousand feet in length, and which are intended to be exhibited on successive dates at intervals not exceeding fourteen days;

2ND SCH.
—cont.
PART V.
—cont.

“ short film ” means a film the length of which is less than three thousand feet;

• “ studio ” means a building constructed or adapted for the purpose of making films therein, and includes any land occupied with such a building, and a studio shall be deemed to be used in making a film if any part of that film, or of any other film used in making it, consists of photographs taken in that studio; and “ studio scenes ” shall be construed accordingly;

“ theatre ” means any premises used for the exhibition of films to the public, except that the expression shall not, in relation to any year,—

(a) be construed as including any church, chapel or other place of religious worship, or any hall or other premises used in connection with, and for the purposes of, any church, chapel or other such place as aforesaid, if the number of days on which registered films are exhibited in that year at the church, chapel, place, hall or premises (exclusive of any exhibition forming part of a religious service) does not exceed six, or

(b) be construed as including any premises used in that year for providing entertainments at which the exhibition of films is only part of the programme, if the total length of the registered film or films exhibited in the course of any one of those entertainments does not exceed two thousand feet;

“ trade-shown,” in relation to a film, means—

(a) displayed within the administrative county of London to exhibitors or their agents in a building, and under conditions, allowing for the satisfactory viewing of the film, after announcement to such persons at least seven days before the display, the display not being open to any member of the public on payment, or

(b) displayed to exhibitors or their agents on one occasion on which the film is exhibited to the public at a theatre in Great Britain during the first four consecutive days on which the film is so exhibited, the display taking place after announcement to such persons at least seven days before the display.

(4) Any reference in this Act to distributing, or the distribution of, a film shall be construed as a reference to distributing, or the distribution of, the film to exhibitors for public exhibition.

(5) For the purposes of this Act, the making of a film shall be deemed not to include the production of blank film or of positives intended for public exhibition, or the production of negatives by means of any process used for making copies of negatives.

In this subsection the expressions “ blank film ”, “ positives ” and “ negatives ” have the same meanings respectively as in section three of the Finance Act, 1925.

2ND SCH.
—cont.
PART V.
—cont.

15 & 16 Geo. 5.
c. 36.

(6) For the purposes of this Act and of the Cinematograph Films Act, 1948, registered films shall be deemed to be exhibited at more than one theatre at the same time if any part of the period during which any one registered film is exhibited at a theatre coincides with any part of the period during which any one registered film is exhibited at another theatre.

(7) For the purposes of this Act and of the Cinematograph Films Act, 1948, each part of a serial film or series of films shall be deemed to be a separate film.

(8) Any reference in this Act to His Majesty's dominions shall be construed as including a reference to any British protectorate, and to any such territory, being a territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty, as His Majesty may designate by Order in Council.

Any Order in Council under this subsection may be varied or revoked by a subsequent Order in Council.

Transitional provisions.

45.—(6) The sum by which the aggregate amount produced up to the commencement of this Act by the fees charged under the Act of 1927 exceeds the expenses incidental to the carrying out of that Act up to the commencement of this Act shall be deemed to form part of the amount produced by the fees chargeable under this Act.

Short title, commencement and extent.

46.—(1) This Act may be cited as the Cinematograph Films Act, 1938.

(2) This Act shall come into operation on the first day of April, nineteen hundred and thirty-eight.

10 & 11
Geo. 5. c. 67.

(3) This Act shall not extend to Northern Ireland; and for the purposes of the Government of Ireland Act, 1920, the enactment of legislation for purposes similar to the purposes of this Act or of the Cinematograph Films Act, 1948, shall be deemed not to be beyond the powers of the Parliament of Northern Ireland by reason only that such legislation may affect trade with places outside Northern Ireland.

SECOND SCHEDULE.

MAXIMUM FEES.

	Maximum Fee.
	£ s.
On an application for the registration of a film	2 2
On an application for a renter's licence	5 5
On an application for an exhibitor's licence	2 2

CHAPTER 24.

An Act to make provision as to the pensions to be paid to and in respect of members of police forces and as to the length of the period of their service, to amend and repeal with savings certain statutory provisions relating to the pensions to be paid to and in respect of members of police forces and as to the length of their service, and for purposes connected with the matters aforesaid. [24th March 1948.]

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) Regulations to be made by the Secretary of State, with the consent of the Treasury and after consultation with the Police Council, shall make provision— Police pension regulations.

- (a) as to the pensions which are to be paid to and in respect of members of police forces, whether as of right or otherwise ; and
- (b) as to the contributions in respect of pension rights which are to be made by members of police forces ; and
- (c) as to the times at which and the circumstances in which members of police forces are or may be required to retire otherwise than on the ground of misconduct.

(2) Without prejudice to the generality of the provisions of the preceding subsection, any such regulations shall provide for the payment subject to the provisions of the regulations—

- (i) of pensions to and in respect of persons who cease to be members of a police force after having served for such period as may be prescribed by the regulations ;
- (ii) of pensions to and in respect of persons who cease to be members of a police force after such shorter period as may be prescribed by the regulations by reason of infirmity of mind or body ;
- (iii) of pensions to and in respect of persons who cease to be members of a police force by reason of injury received in the execution of their duty ;
- (iv) of pensions to and in respect of persons who cease to be members of a police force on the ground of age ; and

(v) of pensions in respect of persons who die while serving as members of police forces,

and may provide that where a person ceases to be a member of a police force in order to undertake compulsory national service, the period of his compulsory national service and such further period, if any, as may be specified in the regulations may be treated, in such manner, to such extent and on such conditions as to contributions or otherwise as may be so specified, as a period of service as a member of a police force.

(3) Regulations made under this section may contain such consequential or incidental provisions as appear to the Secretary of State to be necessary or expedient, including, in particular, provision as to the cases in which pensions are to be varied, suspended or terminated, or are to be applied otherwise than by being paid to the persons to whom they were awarded.

(4) Without prejudice to the generality of the preceding provisions of this section, regulations made under this section may contain such provision as appears to the Secretary of State to be necessary or expedient in relation to a person who transfers from or to service in a police force to or from other service or employment, whether in a police force or not, including provisions enabling that other service or employment to be reckoned in whole or in part as service in a police force and provisions authorising or requiring payments to be made by or to the person or into or out of the fund out of which a pension may become or might have become payable to or in respect of the person in question as a member of a police force, including payments of contributions, payments of transfer values, payments towards the burden of a pension payable by another person or out of another fund, or other payments directed to the creation or preservation of pension rights of the person in question.

(5) Regulations made under this section shall specify the persons by and to whom and the funds into or out of which pensions and contributions in respect of pension rights are to be payable, may provide for the establishment or continuance of special funds for the purpose, and, subject to the provisions of this subsection, may provide for payments of contributions or pensions, and such other payments as are mentioned in subsection (4) of this section, being made into the Exchequer or out of moneys provided by Parliament :

Provided that no regulations shall provide for payments into the Exchequer or out of moneys provided by Parliament except in relation to a person who is or has been such a person as is mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945, or any other person whose salary or remuneration is or was wholly or partly payable out of moneys provided by Parliament or who is or may become entitled to or eligible for

a pension so payable, so, however, that regulations shall not be treated for the purpose of this proviso as providing for payments out of moneys provided by Parliament by reason only that, as a result of the making of the regulations, an increased sum may be payable out of moneys provided by way of a grant towards the expenses of a police force.

(6) Nothing in this section or in any regulations made thereunder shall affect any of the provisions of the National Insurance Act, 1946, or the National Insurance (Industrial Injuries) Act, 1946. 9 & 10 Geo. 6.
c. 67.
9 & 10 Geo. 6.
c. 62.

(7) Any power to make regulations under this section shall be exercisable by statutory instrument, and before any such instrument is made, a draft of the regulations shall be laid before each House of Parliament, and the instrument shall not be made until that draft has been approved by resolution of each House.

2.—(1) Any regulations made under section one of this Act shall be so framed as to ensure— Protection
of serving
members.

(a) that the times at which an existing member of a police force is or may be required under those regulations to retire on the ground of age do not, unless he at any time elects otherwise, differ from those which would have been applicable in his case if those regulations had not come into force ; and

(b) that the scale of pensions payable under those regulations to an existing member of a police force who ceases to be a member of that police force either—

(i) after having served for any period prescribed by those regulations ; or

(ii) by reason of infirmity of mind or body after having served for any shorter period so prescribed, not being infirmity due to injury received in the execution of his duty,

is not, unless he elects otherwise within such time and in such manner as may be prescribed in those regulations, less favourable than the scale applicable in his case immediately before the coming into force of those regulations.

In this subsection, the expression "existing member," in relation to any police force, means a person who is serving in that police force at the date when the regulations in question come into force.

(2) Regulations made under the said section one shall not be invalid by reason that in fact they do not secure the results specified in the preceding subsection, but if the Secretary of State is satisfied, or it is held by the High Court or by the Court

of Session, that any such regulations have failed to secure those results, the Secretary of State shall so soon as may be make under the said section one the necessary amending regulations, and any such amending regulations shall have effect as from the date of the coming into force of the regulations which they amend.

Application
of regulations.

3.—(1) Subject to the provisions of the last preceding section and of this subsection, any regulations made under section one of this Act may be so framed as to apply in relation to persons who, at the date when the regulations come into force are, or thereafter become, members of any police force, and also so as to apply to pensions granted on the death of a person who had ceased to be a member of a police force before the said date, where the death occurs on or after the said date and also so as to authorise or require the payment of pensions or increased pensions to widows and children of persons dying before the said date (whether before or after the passing of this Act) where the deceased had been a member of a police force and, in the case of a widow, where the marriage was in existence when he ceased (whether on death or otherwise) to be a member thereof :

Provided that nothing in any such regulations shall—

- (a) affect any pension granted on the retirement of any person if the retirement occurred before the said date, notwithstanding that that person is on the said date, or thereafter becomes, again a member of a police force ; or
- (b) affect any pension granted by virtue of subsection (3) of section four of the Police and Firemen (War Service) Act, 1939, if the expiration of the period (or last period, if more than one) which, by virtue of subsection (1) of section two of that Act, is treated as a period of approved service in the case of the person in question is before the date of the coming into force of the first regulations so made as aforesaid ; or
- (c) apply to any pension to or in respect of a person to whom the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, apply ; or
- (d) apply to any pension to any person who, having formerly been a member of a police force, is at the date of the coming into force of the first regulations so made as aforesaid serving in any capacity mentioned in paragraph (i) of subsection (1) of section ten of the Police Pensions Act, 1921, and does not thereafter again become a member of a police force ;

2 & 3 Geo. 6.
c. 103.

11 & 12 Geo. 5.
c. 31.

and the pensions enactments in force immediately before the coming into force of the first regulations so made as aforesaid shall (subject, in the case of the pensions mentioned in paragraph

(c) of this proviso, to the provisions of any regulations made under the Fire Services Act, 1947) continue to apply in relation to such pensions as are mentioned in this proviso as though the provisions of this Act (other than the two next succeeding sections) had not been passed. 10 & 11 Geo. 6. c. 41.

(2) A person who, before the date of the coming into force of the first regulations made under section one of this Act, has ceased to be a member of a police force in order to undertake any service by virtue of which he is a person to whom section one of the Police and Firemen (War Service) Act, 1939, applies, or in order to undertake compulsory national service, shall, in such circumstances and to such extent as may be provided by regulations so made, be treated as if he were at that date still a member of a police force.

(3) The provisions of this Act shall—

(a) have effect as if commissioners and assistant commissioners of the metropolitan police force and commissioners of the City of London police force were members of those forces respectively ; and

(b) in relation to any person who at the date of the coming into force of the first regulations made under section one of this Act is or has been the surgeon of the City of London police force or a clerk or other person employed in or in connection with that force, have effect as if such surgeons, clerks or other persons employed in or in connection with that force were members thereof ;

and references in this Act to membership of a police force shall be construed accordingly.

(4) On the coming into force of the first regulations made under section one of this Act, the Acts specified in Part I of the First Schedule to this Act and the rules and regulations specified in Part II of that Schedule, shall, save as provided in the proviso to subsection (1) of this section, cease to have effect to the extent specified in those Parts of that Schedule respectively, except so far as the contrary may be provided by the first mentioned regulations ; and the enactments mentioned in Part III of that Schedule shall, save as aforesaid and except so far as the contrary may be so provided, have effect subject to the provisions of the said Part III, being provisions consequential on the repeals effected by the preceding provisions of this subsection.

4.—(1) Every pension granted under regulations made under this Act is granted, and every pension (whether described as a pension or as an allowance) granted under any of the enactments specified in Part I of the First Schedule to this Act shall be deemed to have been granted, only upon condition that it may be Forfeiture of pensions.

forfeited by the police authority in any of the following cases, that is to say, if the grantee—

- (a) is convicted of any offence and is sentenced to penal servitude or to imprisonment for a term exceeding twelve months ; or
- (b) enters into or continues to carry on any business, occupation or employment which is illegal, or in which the grantee has made use of the fact of former employment in a police force in a manner which is discreditable or improper ; or
- (c) supplies to any person or publishes in a manner which is discreditable or improper any information which the grantee had obtained in the course of employment in a police force ; or
- (d) solicits or, without the consent of the police authority, accepts directly or indirectly any testimonial or gift having any pecuniary value on retirement from the police force or otherwise in connection with his service in a police force ; or
- (e) enters into or continues in any business, occupation or employment as a private detective, after the police authority have given him notice in writing requiring him on any reasonable grounds not to do so :

Provided that a pension shall not be forfeited under paragraph (b) of this subsection unless reasonable warning has previously been given in writing by the police authority.

(2) A forfeiture under this section may affect the pension wholly or in part, and may be permanent or temporary as the police authority may determine.

(3) Save as aforesaid, such a pension as aforesaid shall not be capable of being forfeited :

Provided that where a pension granted under any of the enactments specified in Part I of the First Schedule to this Act has been forfeited before the passing of this Act, nothing in this Act shall affect the validity of the forfeiture, and the provisions of the Police Pensions Act, 1921, shall apply in relation to the forfeiture as if this Act had not passed.

(4) The preceding provisions of this section shall apply in relation to the rules and regulations specified in Part II of the First Schedule to this Act as it applies in relation to the enactments specified in Part I of that Schedule, subject, however, to any necessary adaptations.

(5) Section fifteen of the Police Pensions Act, 1921, is hereby repealed.

5.—(1) If any person (other than a person such as is mentioned Appeals. in subsection (1) of section one of the Police (Overseas Service) Act, 1945), is aggrieved by—

- (a) the refusal of the police authority to admit a claim to receive as of right a pension, or a larger pension than that granted, under the regulations made under this Act ; or
- (b) the forfeiture, under the provisions in that behalf contained in this Act, of any pension granted to him, whether under the regulations made under this Act or under any of the enactments specified in Part I of the First Schedule to this Act,

he may appeal to a court of quarter sessions and that court, after enquiring into the case, may make such order in the matter as appears to the court to be just :

Provided that—

- (a) nothing in this section shall confer a right to appeal against anything done by the police authority in the exercise of any power which is conferred on them by regulations under this Act and is expressly declared by those regulations to be a power which they are to exercise in their discretion ;
- (b) regulations made under this Act may provide, in relation to questions arising out of those regulations, for the reference of any such matter as is specified in the regulations, either by the police authority or by the court, to a medical practitioner, whose decision thereon shall, subject to such rights of appeal as may be provided by the regulations to such tribunal as may be constituted thereunder, be final on the matter so referred.

(2) The court of quarter sessions to which a person may appeal under the preceding subsection shall be—

- (a) if he last served in the metropolitan police force, the court of quarter sessions for the County of London ;
- (b) if he last served in the City of London police force, the court of quarter sessions for the City of London ;
- (c) if he last served in the police force of a borough having a separate police force and a separate court of quarter sessions, the court of quarter sessions for that borough ;
or
- (d) in any other case, the court of quarter sessions for the county in which he last served in a police force.

(3) An appeal shall lie on a point of law from any decision of a court of quarter sessions under this section to the High Court in accordance with rules of court and the decision of the High Court shall be final.

(4) The Secretary of State shall by regulations made under section one of this Act make provision as to the court or other person by whom appeals by persons such as are mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945, who are aggrieved by any refusal of the Secretary of State to admit such a claim, or by any such forfeiture, as is mentioned in subsection (1) of this section are to be heard and determined, and the proviso to subsection (1) of this section shall with any necessary adaptations apply in relation to any such appeal.

(5) In the application of this section to Scotland, for any reference to a court of quarter sessions there shall be substituted a reference to the sheriff having jurisdiction in the place where the person concerned last served as a member of a police force, and for any reference to the High Court, there shall be substituted a reference to the Court of Session.

(6) Paragraph (a) of subsection (1) of section seventeen of the Police Pensions Act, 1921, is hereby repealed.

*Amendment of
Metropolitan Police
Act, 1933.
23 & 24 Geo. 5.
c. 33.*

6. Subsection (1) of section four of the Metropolitan Police Act, 1933 (which authorises the appointment of short service constables) is hereby repealed.

*Miscellaneous
provisions.*

7.—(1) Every assignment of or charge on a pension granted under the regulations made under section one of this Act, and every agreement to assign or charge such a pension, shall, except so far as it is made for the benefit of the family of the pensioner, be void, and on the bankruptcy of the pensioner such a pension shall not pass to any trustee or other person acting on behalf of the creditors.

(2) If any person obtains or attempts to obtain for himself or any other person any pension under any such regulations as aforesaid 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.

Interpretation.

8.—(1) In this Act, except so far as the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“ compulsory national service ” means service in any of the armed forces of the Crown undertaken by virtue of an enlistment notice or a training notice served under the National Service Acts, 1939 to 1947, or work or training

in pursuance of an order of a tribunal under section five of the National Service (Armed Forces) Act, 1939 (which relates to conscientious objectors) ; 2 & 3 Geo. 6.
c. 81.

“ injury ” includes disease ;

“ pension ”, in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or a gratuity so payable and a return of contributions ;

“ pension rights ” includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person ;

“ police authority,” in relation to any regulations made under the Police (Overseas Service) Act, 1945, means the Secretary of State, and in any other case has the same meaning as in section thirty of the Police Pensions Act, 1921 ;

“ police force ” means any police force maintained for any police area mentioned in the Third Schedule to the Police Pensions Act, 1921, or maintained by virtue of any scheme under the Police Act, 1946, or under the Police (Scotland) Act, 1946, and, in respect of persons such as are mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945, any body in which such persons are serving. 9 & 10 Geo. 6.
c. 46.
9 & 10 Geo. 6.
c. 71.

(2) Except so far as the context otherwise requires, any reference in this Act to any other Act or to any rules or regulations shall be construed as a reference to that Act or those rules or regulations as amended by or under any other Act, including this Act.

9.—(1) This Act may be cited as the Police Pensions Act, 1948. Short title,
repeals and
extent.

(2) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule with effect from the passing of this Act.

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

Provided that this subsection shall not be construed as preventing any regulations such as are referred to in subsection (4) of section one of this Act from requiring payments to be made to a person or into a fund in Northern Ireland.

SCHEDULES.

FIRST SCHEDULE.

Section 3.

REPEALS TO COME INTO EFFECT WITH SAVINGS ON MAKING OF
REGULATIONS AND PROVISIONS CONSEQUENTIAL ON
THOSE REPEALS.

PART I.

Acts Repealed.

- 10 Geo. 4. c. 44. 1. *The Metropolitan Police Act, 1829.*
In section twelve, the words " or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service."
- 22 & 23 Vict.
c. 32. 2. *The County and Borough Police Act, 1859.*
Section twenty-two.
- 28 & 29 Vict.
c. 35. 3. *The Police Superannuation Act, 1865.*
The whole Act.
- 51 Vict. c. ix. 4. *The Lincolnshire Police Superannuation Act, 1888.*
Sections four and five.
- 4 & 5 Geo. 5.
c. 34. 5. *The Police Reservists (Allowances) Act, 1914.*
Subsection (2) of section one.
- 4 & 5 Geo. 5.
c. 80. 6. *The Police Constables (Naval and Military Service) Act, 1914.*
The whole Act.
- 5 & 6 Geo. 5.
c. 41. 7. *The Police (Emergency Provisions) Act, 1915.*
The whole Act.
- 8 & 9 Geo. 5.
c. 51. 8. *The Police (Pensions) Act, 1918.*
The whole Act.
- 9 & 10 Geo. 5.
c. 46. 9. *The Police Act, 1919.*
In subsection (1) of section four the word " pensions "; section five ; and in section fourteen the word " pensions ".
- 10 & 11 Geo. 5.
c. xxvii. 10. *The City of London (Various Powers) Act, 1920.*
Sections twelve and thirteen.
- 11 & 12 Geo. 5.
c. 31. 11. *The Police Pensions Act, 1921.*
The whole Act except so much of section thirty as precedes the provisos thereto, subsection (1) of section thirty-five and the Third Schedule.
- 16 & 17 Geo. 5.
c. 34. 12. *The Police Pensions Act, 1926.*
The whole Act.
- 23 & 24 Geo. 5.
c. 33. 13. *The Metropolitan Police Act, 1933.*
Section two and subsection (2) of section four.

14. *The Police and Firemen (War Service) Act, 1939.*

1ST SCH.

—cont.

2 & 3 Geo. 6.
c. 103.

In section two, the words "police force or", in both places where those words occur, the words "constable or" wherever those words occur, and the words "sections nine and twenty of the Police Pensions Act 1921 and"; in section three the words "constable or" wherever those words occur; subsection (1) of section four; in subsection (3) of section four, the words "police force or", the words "constable or" wherever those words occur, and the words "in the case of a constable, by an injury received in the execution of his duty as a constable without his own default and"; in subsection (4) of section four, the words "constable or" in both places where those words occur, and paragraph (i); in subsection (5) of section four, the words "(1) or", the words "constable or" in both places where those words occur and the words "subsection (1) or"; in section five, the words "constable or" in both places where those words occur; subsection (1) of section six; in subsection (2) of section ten the words "police force or", wherever those words occur, and the words "constable or"; in section eleven, the words "the Police Pensions Act, 1921 and"; in subsection (3) of section thirteen the words "constable or", wherever those words occur; and in section fourteen, in the definition of "appropriate pension enactment", the words "in relation to a person who has ceased to serve as a constable, means the Police Pensions Act, 1921, as amended by any subsequent enactment and".

15. *The Pensions (Increase) Act, 1944.*

7 & 8 Geo. 6.

Paragraph 2 of Part II of the First Schedule.

c. 21.

16. *The Police and Firemen (War Service) Act, 1944.*

7 & 8 Geo. 6.

c. 22.

In subsection (1) of section one (which substitutes a new section four for section four of the Police and Firemen (War Service) Act, 1939) the same words as are specified in paragraph 14 of this Part of this Schedule in relation to section four; in subsection (1) of section two the words "(1) or" and the words "constable or"; in subsection (2) of section two the words "constable or"; paragraph (a) of subsection (3) of section two; in subsection (1) of section three, the words "(1) and"; in subsection (3) of section three the words "police force or" and the words "constable or"; in subsection (1) of section four the words "constable or"; in section five the words "police force or" wherever those words occur and the words "constable or"; in subsection (2) of section six the words "constables or" in both places where they occur.

17. *The Police (Overseas Service) Act, 1945.*

9 & 10 Geo. 6.

In subsection (2) of section one the words from "and may" to the end of the subsection; subsections (3) and (4) of the said section one; in subsection (1) of section two the words "subject to the provisions of any regulations made under section one of this Act" and the words "the Police Pensions Act, 1921, and of".

c. 17.

18. *The Police Act, 1946.*

9 & 10 Geo. 6.

Paragraphs (b) and (c) of, and the proviso to, subsection (3) of section eleven, and subsections (4) and (5) of that section; paragraph 10 of the Second Schedule; and in the Third Schedule, paragraph 3 and sub-paragraph (2) of paragraph 5.

c. 46.

D

- 1ST SCH.
—cont.
9 & 10 GEO. 6.
c. 71.
19. *The Police (Scotland) Act, 1946.*
Paragraphs (b) and (c) of, and the proviso to, subsection (2) of section seven, and subsections (3) and (4) of that section; paragraph 7 of the First Schedule; and paragraphs 3 and 4 of the Third Schedule.
- 10 & 11 GEO. 6.
c. 7.
20. *The Pensions (Increase) Act, 1947.*
Subsection (3) of section two.

PART II.

Rules and regulations repealed.

1. *The Police War Reserve Rules, 1945.*
Rule 31.
2. *The Police War Reserve (Scotland) Rules, 1945.*
Rule 35.
3. *The Women's Auxiliary Police Corps Rules, 1945.*
Part VII.
4. *The Women's Auxiliary Police Corps (Scotland) Rules, 1945.*
Part VII.
5. *The Police (Overseas Service)²(Germany) Regulations, 1947.*
Part II and the Second Schedule.
6. *The Police (Overseas Service) (Austria) Regulations, 1947.*
Part II and the Second Schedule.
7. *The Police (Overseas Service) (Greece) Regulations, 1948.*
Part II and the Second Schedule.

PART III.

Provisions consequent on repeals.

1. Regulations under this Act may amend subsection (4) of section four of the Police and Firemen (War Service) Act, 1944, (which relates to the period within which a constable may resume service without making a fresh declaration on accepting office as a constable) by substituting for the reference to any period which is to be treated as a period of approved service in his case by virtue of subsection (1) of section two of the Police and Firemen (War Service) Act, 1939, a reference to such other period as may be prescribed by or under the regulations.
2. The reference in subsection (1) of section two of the Police (Overseas Service) Act, 1945, to a pension, allowance or gratuity becoming payable to a person out of moneys provided by Parliament by virtue of regulations made under that Act shall be construed as including a reference to a pension (as defined for the purposes of this Act) payable by virtue of regulations made under this Act, being a pension which becomes payable in such circumstances as may be specified for the purposes of this paragraph by the last-mentioned regulations.

SECOND SCHEDULE.

Section 9.

ENACTMENTS REPEALED AS FROM THE PASSING
OF THIS ACT.

Session and Chapter.	Short Title.	Extent of repeal.
11 & 12 Geo. 5. c. 31.	The Police Pensions Act, 1921.	Section fifteen and paragraph (a) of subsection (1) of section seventeen.
23 & 24 Geo. 5. c. 33.	The Metropolitan Police Act, 1933.	Subsection (1) of section four.

CHAPTER 25.

An Act to provide for the establishment of a Volunteer Reserve of Royal Marines, and to amend the law with respect to engagements in the Royal Marines.

[24th March 1948.]

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) It shall be lawful for the Admiralty to raise and maintain a reserve Volunteer Force of Marines, to be known as the Royal Marine Forces Volunteer Reserve. Power to raise Royal Marine Forces Volunteer Reserve.

(2) Subsection (2) of section one of the Naval Forces Act, 1903 (which provides for the government and discipline of the Royal Naval Volunteer Reserve) and section three of that Act (which regulates the payment of members of the Royal Naval Volunteer Reserve when serving for training and when called out for actual service) shall apply to the Royal Marine Forces Volunteer Reserve and to volunteers enrolled therein under this section as they apply to the Royal Naval Volunteer Reserve and to volunteers enrolled in that reserve under that Act : 3 Edw. 7. c. 6.

Provided that the volunteers enrolled in the Royal Marine Forces Volunteer Reserve, when called into actual service and when being trained and exercised, shall be subject to the law for the time being in force for the government of the Royal Marines.

(3) The Royal Marine Forces Volunteer Reserve shall be deemed to be an auxiliary force within the meaning of the National Service Act, 1947 ; and sections three and four of that 10 & 11 Geo. 6
c. 31.

Act (which relate respectively to volunteer service in certain auxiliary forces in lieu of part-time service, and to the transfer of persons serving under that Act from one auxiliary force to another) shall have effect as if, in each of those sections, after the words " the Royal Naval Volunteer Reserve " there were inserted the words " the Royal Marine Forces Volunteer Reserve ".

(4) The Greenwich Hospital Acts, 1865 to 1947, shall have effect as if references therein to any Naval Reserve Force included references to the Royal Marine Forces Volunteer Reserve.

(5) Any expenses incurred by the Admiralty under this section shall be defrayed out of moneys provided by Parliament.

(6) Section two of the Naval Forces Act, 1903, shall cease to have effect.

Special
service
engagements.
20 Vict. c. 1.

2.—(1) Any order made by the Admiralty under section one of the Royal Marines Act, 1857, may provide for the enlistment of Marines to serve for any term authorised by that section on the condition that a Marine so enlisted shall be liable, after such period of service in the Royal Marines as may be prescribed by the order, and as may be specified in his attestation, to serve for the remainder of the term in the Royal Fleet Reserve.

10 & 11 Vict.
c. 63.

(2) For the purposes of the Royal Marines Act, 1847, the period for which a person enlisted in accordance with the provisions of the foregoing subsection is required to serve in the Royal Marines shall be deemed to be his term of service or limited service ; and section six of that Act (which relates to the discharge of marines who are on a foreign station at the expiration of their term of service) shall have effect, in relation to any such person, as if for references to his discharge or final discharge there were substituted references to his transfer to the reserve :

Provided that a person so enlisted may at any time before the expiration of the period aforesaid be re-engaged for continuous service in the Royal Marines for the remainder of the term of his original engagement, and thereupon the foregoing provisions of this subsection shall cease to apply to him.

Interpretation
and short title.

3.—(1) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(2) This Act may be cited as the Royal Marines Act, 1948.



CHAPTER 26.*Local Government Act, 1948.*

ARRANGEMENT OF SECTIONS.

PART I.

EXCHEQUER GRANTS AND OTHER FINANCIAL PROVISIONS
(ENGLAND AND WALES).*Discontinued grants.*

Section.

1. Termination of certain Exchequer Grants and of third fixed grant period.

Exchequer Grants to Counties and County Boroughs.

2. Exchequer Equalisation Grants to counties and county boroughs.
3. Meaning of "standard rateable value".
4. Meaning of "the relevant fraction".
5. Exchequer Transitional Grants for first five years.
6. Power to reduce Exchequer Grants.
7. Provisions as to Health Service Exchequer Grants.
8. Power to pay council's contributions to voluntary associations out of sums payable as Exchequer Grants.

Payments by county councils to local authorities in county.

9. Payments to county districts.
10. Payments to metropolitan boroughs.

Miscellaneous.

11. Discontinuance of burden payments on changes of boundary.
12. Continuation of third fixed grant period for certain purposes.
13. Special provisions as to Exchequer Grants for 1948-49.
14. Investigation into working of provisions as to amount of payments to local authorities under Part I.
15. Supplemental provisions as to Part I.
16. Extent of Part I.

PART II.

EXCHEQUER GRANTS AND OTHER FINANCIAL PROVISIONS
(SCOTLAND).*Discontinued Grants.*

17. Termination of certain Exchequer Grants, and of third fixed grant period.

Exchequer Grants to counties and large burghs.

18. Exchequer Equalisation Grants to counties and large burghs.
19. Meaning of "standard rateable value".
20. Meaning of "the relevant fraction".
21. Exchequer transitional grants for first five years.
22. Power to reduce Exchequer Grants.
23. Provisions as to Health Service Exchequer Grants.
24. Power to pay council's contributions to voluntary association out of sum payable as Exchequer grants.

*Payments out of Exchequer Equalisation Grant to
small burghs and landward areas.*

Section.

25. Payments to small burghs and landward areas.

Miscellaneous.

26. Discontinuance of burden payments on changes of boundary.
27. Continuation of third fixed grant period for certain purposes.
28. Special provisions as to Exchequer Grants for 1948-49.
29. Application of grants payable under Part II.
30. Investigation into working of provisions as to amount of payments to local authorities under Part II.
31. Supplemental provisions as to Part II.
32. Extent of Part II.

PART III.

VALUATION AND RATING PROCEDURE.

General.

33. Valuations to be made by Inland Revenue officers.

Preparation of new lists.

34. New valuation lists to be made in 1952, &c.
35. Draft lists.
36. Objections to draft lists.
37. Revision of draft lists.
38. Settling of valuation list.
39. Duty of rating authority as respects valuation list.

Alteration of current Valuation Lists.

40. Proposals for alteration of lists.
41. Proceedings on proposals.
42. Effect of alterations made in pursuance of proposals.
43. Clerical and arithmetical errors.

Appeals.

44. Local valuation courts.
45. Submission and approval of schemes.
46. Membership of panels.
47. Staff, expenses, &c., of local valuation panels and courts.
48. Sittings, procedure and powers of local valuation courts.
49. Appeal to county court.
50. Arbitration.

Provisions as to rates

51. Rate to be levied notwithstanding appeal against valuation list.
52. Amendment of rate.
53. Limits of right of appeal at quarter sessions against rate.
54. Rates in London.

Provisions as to rating.

55. Rating of owners instead of occupiers.
56. Advertising stations to be separate hereditaments in certain cases.
57. Assessment of certain buildings occupied in parts.

Returns, Inspection, &c.

Section.

- 58. Returns.
- 59. Duty of surveyor of taxes and local authorities.
- 60. Power of entry.
- 61. Evidence and inspection of valuation lists, rates, &c.

Miscellaneous.

- 62. Appeals as to water rates.
- 63. Service of notices, &c.
- 64. Inclusion in one proceeding of separate hereditaments.
- 65. Extension to London of provisions as to Crown property.
- 66. Saving for position of owners in certain cases.
- 67. Membership of local authority, &c., not to be disqualification in certain cases.
- 68. Transfer of valuation offices, &c.
- 69. Use of public rooms.
- 70. Savings and application of enactments.
- 71. Regulations for the purposes of Part III.
- 72. Commencement of Part III and transitional provisions.
- 73. Extent of Part III.

PART IV.

VALUATION OF DWELLING-HOUSES.

Gross values : Preliminary.

- 74. Scope of provisions of Part IV as to gross values.

Ascertainment of gross values by reference to 1938 cost.

- 75. Scope of principle that gross value is to be ascertained by 1938 cost.
- 76. Meaning of "hypothetical 1938 cost of construction".
- 77. Meaning of "hypothetical 1938 site cost".
- 78. Post-1918 local authority or housing association dwelling-houses, other than flats and maisonettes.
- 79. Post-1918 local authority or housing association flats or maisonettes.
- 80. Other small post-1918 dwelling-houses, except flats and maisonettes.
- 81. Adjustment for adaptations for business purposes.

Other cases.

- 82. Gross value of other dwelling-houses.

Deductions from gross value.

- 83. Deductions from gross value in certain cases.

Extent of Part IV.

- 84. Extent of Part IV.

PART V.

RATING OF TRANSPORT AND ELECTRICITY AUTHORITIES.

General.

- 85. Railway or canal hereditaments and electricity hereditaments not to be rated.

Railways and canals : rating provisions.

Section.

- 86. Definition of railway or canal hereditament.
- 87. Railway or canal hereditaments partly used for other purposes.
- 88. Repeal of certain provisions of Railways (Valuation for Rating) Act, 1930, &c.
- 89. Commencement of provisions as to railway or canal hereditaments and transitional provisions.
- 90. Hereditaments shown as railway hereditaments, &c., but not in fact occupied by British Transport Commission.

Electricity : rating provisions.

- 91. Dwelling-houses of electricity authorities and boards to remain rateable.
- 92. Commencement of provisions as to electricity hereditaments and transitional provisions.

Payments by British Transport Commission for benefit of local authorities.

- 93. Amount of payments by British Transport Commission.
- 94. Adjustments of British Transport Commission's payments for changes in the average rates.
- 95. Adjustments for changes in the circumstances of the British Transport Commission.

Payments by British Electricity Authority for benefit of local authorities.

- 96. Amount of payments by British Electricity Authority.
- 97. Adjustments of British Electricity Authority's payments for changes in the average rates.
- 98. Adjustments for changes in amount of electricity supplied.

Payments by North of Scotland Hydro-Electric Board for benefit of local authorities.

- 99. Amount of payments by Hydro-Electric Board.

General provision as to payments for benefit of local authorities.

- 100. Provision as to making and division of payments for benefit of local authorities.
- 101. Application of payments under Part V to councils in Scotland.
- 102. Treatment of payments for benefit of local authorities.
- 103. Power of British Electricity Authority to require contributions from Area Electricity Boards.

Miscellaneous.

- 104. Stabilisation of payments by British Transport Commission to Railway Freight Rebates Fund.
- 105. Temporary grants by county councils to county district councils, parish councils, &c., in certain cases.
- 106. Duties of rating authorities.
- 107. Amendment of Hydro-Electric Development (Scotland) Act, 1943, Sch. 4.
- 108. Assessor of Public Undertakings (Scotland).
- 109. Power to make orders varying Part V.
- 110. Power to make regulations for the purposes of Part V.

PART VI.

ALLOWANCES TO MEMBERS OF LOCAL AUTHORITIES AND
OTHER BODIES.

Section.

- 111. Bodies to which Part VI applies and members thereof.
- 112. Financial loss allowance.
- 113. Travelling allowance and subsistence allowance.
- 114. Bodies by whom payments by way of allowances are to be made.
- 115. Meaning of " approved duty ".
- 116. Allowance to chairman of district council for expenses of office.
- 117. Regulations for the purposes of Part VI.
- 118. Application of preceding provisions to Scotland.
- 119. Expenses incurred by members of councils in Scotland in attending conferences, &c.

PART VII.

MISCELLANEOUS.

- 120. Provisions as to precepts.
- 121. Provisions as to precepts for expenses of Metropolitan Police.
- 122. Amendment of Rating and Valuation Act, 1925, s. 11.
- 123. Explanation of " rating area " in relation to London.
- 124. Subjects to be valued by Assessor of Public Undertakings (Scotland).
- 125. Transfer of stock issued by certain authorities.
- 126. Contributions by county councils to expenses of county district councils.
- 127. Transfer to county councils of property and liabilities relating to county roads.
- 128. Provisions as to finance committees.
- 129. Subscriptions to local government associations.
- 130. Insurance by local authorities against accidents to members.
- 131. Disability of members of local authorities for voting on account of interest in contracts, etc.
- 132. Provision of entertainments.
- 133. War memorials.
- 134. Information centres.
- 135. Instruction, lectures, &c., on questions relating to local government.
- 136. Assistance by local authorities to other bodies.
- 137. Amendment of Health Resorts and Watering Places Act, 1936, s. 1.
- 138. Power to assist in performance of transferred functions.
- 139. Amendment of Local Government (Scotland) Act, 1947, s. 211.

PART VIII.

GENERAL.

- 140. Compensation to officers.
- 141. Payments to councils to be for general expenditure.
- 142. Provisions as to statutory instruments under this Act.
- 143. Expenses.
- 144. Interpretation.
- 145. Application to Scotland.
- 146. Application to Isles of Scilly.
- 147. Repeals.
- 148. Short title and extent.

D*

SCHEDULES.

First Schedule.—Minor amendments consequential on Part III.
Second Schedule.—Enactments repealed.

Part I.—Repeals consequential upon Parts I & II of this Act.

Part II.—Repeals consequential upon Part III of this Act.

Part III.—Repeals consequential upon Part V of this Act.

Part IV.—Repeals consequential upon changes as to Metropolitan Police Fund precepting powers.

Part V.—Repeals consequential upon other provisions of this Act.

An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 to 1943, section two hundred and eleven of the Local Government (Scotland) Act, 1947, the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid. [24th March 1948.]

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.

EXCHEQUER GRANTS AND OTHER FINANCIAL
PROVISIONS (ENGLAND AND WALES).*Discontinued grants.*

Termination
of certain
Exchequer
grants, and of
third fixed
grant period.

1. Save as otherwise provided by this Part of this Act—
 - (a) no Exchequer grant shall be payable under the Local Government Acts, 1929 to 1946, for the year 1948–49 or any subsequent year; and
 - (b) the third fixed grant period shall for the purposes of all enactments be terminated at the end of March, nineteen hundred and forty-eight.

*Exchequer Grants to Counties and County Boroughs.*PART I.
—cont.

2.—(1) Where for the year 1948-49 or any subsequent year the rateable value for a county or county borough is less than the standard rateable value for that county or county borough (as defined by the subsequent provisions of this Part of this Act), there shall be paid out of moneys provided by Parliament to the council of the county or county borough a grant equal to the relevant fraction (as so defined) of the amount of the difference.

Exchequer
Equalisation
Grants to
counties and
county
boroughs.

(2) The said difference is in the subsequent provisions of this Part of this Act referred to as the rateable value credited to the county or county borough.

(3) Grants under this section are in the subsequent provisions of this Part of this Act referred to as "Exchequer Equalisation Grants."

3.—(1) The standard rateable value for a county or county borough for the purposes of the preceding provisions of this Part of this Act is the amount which bears to the weighted population of that county or county borough for the year in question the same proportion as the sum which is to be taken for the purposes of this subsection as the rateable value for England and Wales for that year bears to the aggregate of the weighted populations of all the counties and county boroughs in England and Wales for that year.

Meaning of
"standard
rateable
value".

(2) In this section, the expression "the weighted population" in relation to a county or county borough means the population thereof plus the number of children under fifteen years of age therein and, in the case of a county the population whereof divided by the road-mileage thereof is less than seventy, plus also one-third of the additional population needed in order that the population thereof divided by the road-mileage thereof should be seventy.

(3) The sum which is to be taken for the purposes of subsection (1) of this section as the rateable value for England and Wales for any year is the rateable value for England and Wales for that year, increased, in the case of any year subsequent to the year 1948-49, to such extent, if any, as the Minister may direct in relation to that subsequent year.

(4) The power conferred on the Minister by the last preceding subsection to direct such increases as are therein referred to shall, as respects any year, be used for the purpose and only for the purpose of securing that the proportion which the aggregate of the rateable values credited to all the counties and county boroughs in England and Wales bears to the rateable value for England and Wales shall be as nearly as may be the same for that year as for the year 1948-49; but the Minister shall not use the said power as respects any year unless the effect of the

PART I.
—cont.

use thereof would be to increase the aggregate of the rateable values credited to all counties and county boroughs in England and Wales for that year by at least one per cent.

Meaning of
“ the relevant
fraction ”.

4.—(1) The relevant fraction for a county or county borough for the purposes of the preceding provisions of this Part of this Act is the fraction arrived at by dividing the relevant local expenditure for the year in question by the sum of the following amounts, that is to say, the rateable value credited to the county or county borough for that year and the product of a rate of one pound in the pound for the county or county borough for that year.

(2) In this section, the expression “ the relevant local expenditure ” means so much of the total expenditure for the year—

- (a) in the case of a county, of the council of the county and of the other local authorities in the county ; and
- (b) in the case of a county borough, of the council of the county borough,

as would have to be met out of rates levied within the county or county borough if no Exchequer Grants under this Part of this Act and (so far as any such Grant is relevant to the year in question) no Exchequer Grants payable for any previous year under the Local Government Acts, 1929 to 1946, were payable, and if no grants had been made out of moneys provided by Parliament to local authorities by the Minister by way of special assistance in respect of their financial difficulties arising out of the war.

(3) Where, by virtue of a precept or other instrument, not being a precept or instrument issued by a county council, any sum falls to be paid by a local authority to any other authority, the amount payable shall be treated for the purposes of subsection (2) of this section as expenditure of the first-mentioned authority.

(4) The provisions of subsection (2) of this section shall, as respects the year 1948-49, have effect subject to the special provisions relating to Exchequer Grants for that year contained hereafter in this Part of this Act.

Exchequer
Transitional
Grants for first
five years.

5.—(1) The Minister shall estimate in relation to each county and county borough in England and Wales the sums specified in subsections (2) and (3) of this section, being, in every case, sums estimated for the year 1947-48.

(2) The Minister shall first estimate—

- (a) the aggregate of all Exchequer Grants payable under the Local Government Acts, 1929 to 1946, to the council of the county or county borough or, in the case of a county, to any other local authority in the county, less

- any contributions payable by the council of the county or county borough under section three of the Local Government (Financial Provisions) Act, 1937, section sixteen of the Old Age and Widows' Pensions Act, 1940, or section three of the Local Government (Financial Provisions) Act, 1946 ;
- (b) the aggregate of the grants payable to the local education authority for the county or county borough by virtue of regulations under section one hundred or section one hundred and one of the Education Act, 1944, or, where a joint education board has been constituted for the county or county borough, of the proper proportion of any such grants payable to that board ; and
- (c) the product of a rate of sixpence in the pound for the county or county borough.
- (3) The Minister shall then estimate—
- (a) the aggregate of so much of the expenditure incurred by the council of the county or county borough or, in the case of a county, by any other local authority in the county, in—
- (i) providing services which it will be the duty of the Minister to provide under Part II of the National Health Service Act, 1946 ; and
- (ii) performing any functions falling to be discontinued by virtue of any Act of the present Session terminating the existing poor law,
- as would have had to be met out of rates levied in the county or county borough if no Exchequer Grants under the Local Government Acts, 1929 to 1946, and no contributions under section three of the Local Government (Financial Provisions) Act, 1937, section sixteen of the Old Age and Widows' Pensions Act, 1940, or section three of the Local Government (Financial Provisions) Act, 1946, had been payable ;
- (b) the sum which would have been the aggregate mentioned in paragraph (b) of subsection (2) of this section if for the regulations under the enactments mentioned in that paragraph there had been substituted the provisions of such regulations made thereunder as determined the grants payable for the year 1948-49 ;
- (c) the Exchequer Equalisation Grant, if any, which would have been payable to the council of the county or county borough if—
- (i) this Part of this Act had applied to the year 1947-48 as it applies to the year 1948-49 and the

PART I.

—cont.

1 Edw. 8 and
1 Geo. 6. c. 22.
3 & 4 Geo. 6.
c. 13.
9 & 10 Geo. 6.
c. 24.7 & 8 Geo. 6.
c. 31.9 & 10 Geo. 6.
c. 81.

PART I.
—cont.

third fixed grant period had been terminated thereby at the end of March nineteen hundred and forty-seven ; and

(ii) the sum estimated under paragraph (b) of this subsection had been payable under section one hundred and section one hundred and one of the Education Act, 1944, in lieu of the sums mentioned in paragraph (b) of subsection (2) of this section ; and

(iii) the first day of April, nineteen hundred and forty-seven had been both the appointed day for the purposes of Part II of the National Health Service Act, 1946, and the day appointed for the discontinuance of the functions falling to be discontinued by virtue of any Act of the present Session terminating the existing poor law, and the expenditure of the council of the county or county borough and, in the case of a county, of all other local authorities in the county, had been diminished accordingly.

Where, by virtue of a precept or other instrument, not being a precept or instrument issued by a county council, any sum falls to be paid by a local authority to any other authority in respect of the expenditure of that other authority in providing any services or performing any functions, the amount payable shall be treated for the purposes of this subsection as expenditure of the first-mentioned authority incurred by them in providing those services or performing those functions.

(4) If for any county or county borough the total of the sums estimated by the Minister under subsection (2) of this section exceeds the total of the sums so estimated under subsection (3) thereof, there shall be payable out of moneys provided by Parliament to the council of the county or county borough grants for the year 1948-49 and each of the four following years.

(5) The amount of the grant for the year 1948-49 shall be the amount of the said excess and the amounts of the grants for the four following years shall be respectively four-fifths, three-fifths, two-fifths and one-fifth of the amount of the said excess.

(6) Grants under this section are in the subsequent provisions of this Part of this Act referred to as " Exchequer Transitional Grants ".

Power to
reduce
Exchequer
grants.

6.—(1) The Minister may, subject to the provisions of this section, reduce any Exchequer Equalisation Grant or Exchequer Transitional Grant payable to a council by such amount as he thinks just, if—

(a) he is satisfied, either upon representations made to him or without any such representations, that the council have failed to achieve or maintain a reasonable standard of

efficiency and progress in the discharge of their functions, regard being had to the standards maintained in other areas ; or

PART I.
—cont.

- (b) he is satisfied that the expenditure of the council has been excessive and unreasonable, regard being had to the financial resources and other relevant circumstances of the area.

(2) Before reducing any grant by virtue of this section, the Minister shall make and cause to be laid before Parliament a report stating the amount of the reduction, and the reasons therefor, and he shall not make the reduction until the said report is approved by a resolution of the Commons House of Parliament.

7.—(1) The amount of any grant payable out of moneys provided by Parliament under subsection (1) of section fifty-three of the National Health Service Act, 1946, to a local health authority shall, in lieu of being determined by regulations under the said subsection (1), be one-half of the expenditure in respect of which the grant is made.

Provisions as to Health Service Exchequer Grants.

(2) The provisions of the last preceding section shall apply in relation to grants payable under the said section fifty-three as they apply in relation to Exchequer Equalisation Grants and Exchequer Transitional Grants, subject to the following modifications, that is to say—

- (a) the reference in paragraph (a) of subsection (1) of that section to the discharge of their functions by the council shall be construed as a reference to the discharge of their functions under the National Health Service Act, 1946, by the local health authority ; and
- (b) the reference in paragraph (b) of the said subsection (1) to the expenditure of the council shall be construed as a reference to the expenditure of the local health authority under the said Act.

8. Upon application being made to the Minister by the council of any county or county borough requesting that the contributions of the council towards the expenses of any voluntary association having as its object the promotion of public health services should be paid directly to the association out of an Exchequer Equalisation Grant or an Exchequer Transitional Grant to the council, the Minister may pay such contributions accordingly, and any payment so made by him shall be deemed to be a payment to the council on account of the Grant.

Power to pay council's contributions to voluntary associations out of sums payable as Exchequer grants.

Payments by county councils to local authorities in county.

9.—(1) Before the beginning of the year 1948-49 and each subsequent year, the Minister shall estimate for the year in

Payments to county districts.

PART I.
—cont.

relation to every county district in England and Wales the amount following, that is to say, the amount which is equal to the fraction hereinafter specified of the aggregate of the Exchequer Equalisation Grants which will become payable for that year to the councils of counties in England and Wales outside London, and the council of each county shall pay to the council of each county district in the county the amount so estimated by the Minister in relation to that district.

(2) The said fraction is—

- (a) in the case of any county district other than a rural district, one-half of the population of the county district ; and
- (b) in the case of a rural district, one-quarter of the population of the rural district,

divided, in any case, by the aggregate of the population of all counties in England and Wales outside London.

(3) Any payment under this section may, if the councils concerned so agree, be effected in whole or in part by making the appropriate deduction from the amount due under a precept.

Payments to
metropolitan
boroughs. f

10.—(1) In the year 1948–49 and every subsequent year, the London County Council shall pay to the councils of the metropolitan boroughs mentioned in subsection (2) of this section such sums as may be prescribed in relation to those boroughs respectively by a scheme to be made by the Minister after consultation with the London County Council, the Common Council of the City of London and any association or committee which appears to the Minister to be representative of metropolitan borough councils.

(2) The metropolitan boroughs to the councils of which payments are to be made under subsection (1) of this section are the boroughs the rateable values for which are less than the standard rateable value as defined by the scheme.

(3) Any payment under a scheme made under this section shall, if the scheme so provides, be effected in whole or in part by making the appropriate deduction from the amount due under a precept.

(4) Any scheme under this section may be revoked or varied by any subsequent scheme made in like manner as the original scheme.

(5) No reduction or increase in the amount to be contributed by a separately rated area in London towards the amount required to be levied by rate for general county purposes shall be made for the year 1948–49 or any subsequent year by virtue of section one hundred of the Local Government Act, 1929, or of any scheme under section seven of the Local Government (Financial Provisions) Act, 1937.

19 & 20 Geo. 5.
c. 17.

Miscellaneous.

PART I.

—*cont.*

11. No provision shall be made for any payment to a local authority under paragraph (b) of subsection (1) of section one hundred and fifty-two of the Local Government Act, 1933, either as originally enacted, or as applied by any subsequent enactment, in respect of any increase of burden due to an alteration of boundaries or other change taking place after the end of the year 1947-48.

Discontinu-
ance of
burden
payments on
changes of
boundary.
23 & 24 Geo. 5.
c. 51.

12.—(1) This section shall have effect as respects the following enactments (which contain financial provisions relating to the third fixed grant period), that is to say—

Continuation
of third fixed
grant period
for certain
purposes.

- (a) section ninety-three of the Local Government Act, 1929, (which provides for schemes for increasing the sum to be set aside out of a county apportionment in respect of a district the council of which has established a maternity and child welfare committee) ;
- (b) sections one hundred and one and one hundred and two of the said Act (which provide for schemes for the payment of contributions by the councils of counties or county boroughs to voluntary associations or to the King Edward the Seventh Welsh National Memorial Association in respect of maternity and child welfare and other health services) ;
- (c) section four of the Midwives Act, 1936, and section two of the Cancer Act, 1939, (under which Exchequer grants are payable in respect of expenditure imposed by those Acts).

26 Geo. 5. and
1 Edw. 8. c. 40.
2 & 3 Geo. 6.
c. 13.

(2) Notwithstanding the preceding provisions of this Part of this Act, the third fixed grant period shall not for the purposes of any of the said enactments be deemed to have terminated until immediately before the day which is the appointed day for the purposes of Part II of the National Health Service Act, 1946, and payments shall be made accordingly ; and, without prejudice to the generality of the preceding words, payments shall be made under schemes made under section ninety-three of the Local Government Act, 1929, as if there had continued to be county apportionments :

Provided that any sum payable by the Minister by virtue of this section under any such scheme as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section shall be paid by him out of the Exchequer Transitional Grant or Exchequer Equalisation Grant, if any, of the county or county borough council in question for the year 1948-49 and, in so far as it cannot be so paid, shall be paid out of moneys to be paid to the Minister by that council.

PART I.
—cont.

(3) If the date on which any of the said enactments ceases to be in force (either by virtue of an Order in Council fixing an appointed day under the National Health Service Act, 1946, or of any Act of the present Session terminating the existing poor law) is a date before the end of the year 1948-49, the enactment in question and any relevant scheme made thereunder shall have effect so as to require the sum to be set aside or paid for the said year under that enactment or scheme to be the appropriate fraction of the estimated amount which would have been so set aside or paid if the said enactment had continued in force for the whole of the said year.

The appropriate fraction is the number of days in the period beginning with the first day of the said year and ending immediately before the date on which the enactment ceases to be in force divided by three hundred and sixty-five.

(4) Any scheme made under any of the enactments mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section which, by virtue of this section, continues in operation on or after the first day of April, nineteen hundred and forty-eight, may be altered or revoked by a subsequent scheme made at any time between that date and the date when the enactment in question ceases to be in force as aforesaid.

Special provisions as to Exchequer Grants for 1948-49.

13.—(1) The provisions of this section shall have effect if the appointed day for the purposes of Part II of the National Health Service Act, 1946, is after the beginning of, but within, the year 1948-49.

(2) The Minister shall ascertain, in relation to every county and county borough in England and Wales, the total amount of the Exchequer Grants payable under the Local Government Acts, 1929 to 1946—

- (a) in the case of a county, to the council of the county or to any other local authority in the county;
- (b) in the case of a county borough, to the council of the county borough,

for the year 1947-48.

(3) The Minister shall then ascertain, in relation to each such county and county borough as aforesaid, the amount of the contributions payable under section three of the Local Government (Financial Provisions) Act, 1937, section sixteen of the Old Age and Widows' Pensions Act, 1940, and section three of the Local Government (Financial Provisions) Act, 1946, by the council of the county or county borough for the year 1947-48.

(4) There shall be paid out of moneys provided by Parliament to each such county or county borough as aforesaid such sum as bears to the excess of the amount estimated under subsection (2) of this section in relation to the county or county borough over

the amount estimated under subsection (3) of this section in relation thereto the like proportion as the number of days in the part of the year 1948-49 which precedes the appointed day for the purposes of Part II of the National Health Service Act, 1946 bears to the number of days in the whole of that year.

(5) The amounts paid under the last preceding subsection shall be paid in addition to any sum otherwise payable by way of Exchequer Equalisation Grant, for the year 1948-49 but shall, subject to the provisions of the two succeeding subsections, be treated for the purposes of this Part of this Act as, or, as the case may be, as part of, the Exchequer Equalisation Grant to the council in question for that year, and references in this Part of this Act to Exchequer Equalisation Grants shall be construed accordingly.

(6) In computing the amount of the Exchequer Equalisation Grant falling to be made apart from the preceding provisions of this section to any council for the year 1948-49, the relevant fraction for that council shall be ascertained as if the relevant local expenditure were diminished by the amount payable under subsection (4) of this section.

(7) In computing the amounts of the Exchequer Transitional Grants, the amounts payable under subsection (4) of this section shall be left out of account.

14.—(1) In the year in which the first new valuation lists under Part III of this Act come into force and every fifth subsequent year, the Minister shall, in consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, cause investigations to be made into the working of this Part of this Act (due regard being had, amongst other things, to the sums falling to be paid to local authorities under Part V of this Act).

Investigation into working of provisions as to amount of payments to local authorities under Part I.

(2) The Minister shall cause a report of the result of any investigation under this section to be laid before Parliament.

15.—(1) The Minister may make regulations for carrying this Part of this Act into effect and in particular—

Supplemental provisions as to Part I.

(a) for determining the manner in which, subject to the express provisions of this Part of this Act, any calculation or estimate is to be made for any of the purposes of this Part of this Act and, in particular, for determining—

(i) the authority or person by or to whom any information required for the said purposes is to be given and the time at which and the form in which it is to be given ;

(ii) the adjustments to be made for any abnormal treatment of income or expenditure in accounts ;

PART I.
—cont.

- (b) for determining the times at which payments in respect of Exchequer Equalisation Grants and Exchequer Transitional Grants and payments by local authorities under this Part of this Act are to be made ;
- (c) for providing that the calculations or estimates by reference to which any payments or grants are made may be treated as either conclusive or provisional or conclusive for some purposes and provisional for other purposes and, in so far as they are treated as provisional, for the making of further calculations or estimates based on information not previously available and for adjusting, in the light thereof, any payments or grants already made;
- (d) for modifying the operation of this Part of this Act in relation to any authority if and in so far as any such modification is required in relation to that authority in consequence of any alterations or combinations of authorities or alterations of boundaries :

Provided that regulations shall not be made under paragraph (b) of this subsection with respect to Exchequer Equalisation Grants or Exchequer Transitional Grants except with the consent of the Treasury.

(2) The population of an area and the number of children under fifteen years of age in an area shall be calculated for the purposes of this Part of this Act by reference to estimates of the Registrar-General of Births, Deaths and Marriages, and the road-mileage of an area shall be taken for the purposes of this Part of this Act to be the total mileage of highways in that area repairable by the inhabitants at large as estimated by the Minister of Transport.

Extent of
Part I.

16. This Part of this Act shall not extend to Scotland.

PART II.

EXCHEQUER GRANTS AND OTHER FINANCIAL PROVISIONS
(SCOTLAND).*Discontinued grants.*

17. Save as otherwise provided by this Part of this Act—
- (a) no Exchequer grants shall be payable under the Local Government (Scotland) Acts, 1929 to 1946, for the year 1948-49 or any subsequent year ; and
 - (b) the third fixed grant period shall for the purposes of all enactments be terminated on the sixteenth day of May, nineteen hundred and forty-eight.

Exchequer Grants to Counties and large burghs.

18.—(1) Where for the year 1948-49 or any subsequent year the rateable value for a county or large burgh is less than the standard rateable value for that county or large

Termination
of certain
Exchequer
Grants, and of
third fixed
grant period.

Exchequer
Equalisation
Grants to
counties and
large burghs.

burgh (as defined by the subsequent provisions of this Part of this Act), there shall be paid out of moneys provided by Parliament to the council of the county or large burgh a grant equal to the relevant fraction (as so defined) of the amount of the difference.

PART II.
—cont.

(2) The said difference is in the subsequent provisions of this Part of this Act referred to as the rateable value credited to the county or large burgh.

(3) Grants under this section are in the subsequent provisions of this Part of this Act referred to as "Exchequer Equalisation Grants."

19.—(1) The standard rateable value for a county or large burgh for the purposes of the preceding provisions of this Part of this Act is the amount which bears to the weighted population of that county or large burgh for the year in question the same proportion as the sum which is to be taken for the purposes of subsection (1) of section three of this Act as the rateable value for England and Wales for that year increased by twenty-five per cent. bears to the aggregate of the weighted populations of all the counties and county boroughs in England and Wales for that year within the meaning of the said section three.

Meaning of
"standard
rateable value."

(2) In this section, the expression "the weighted population" in relation to a county or large burgh in Scotland means the population thereof plus the number of children under fifteen years of age therein and, in the case of a county the population whereof divided by the road-mileage thereof is less than seventy, plus also one-third of the additional population needed in order that the population thereof divided by the road-mileage thereof should be seventy.

20.—(1) The relevant fraction for a county or large burgh for the purposes of the preceding provisions of this Part of this Act is the fraction arrived at by dividing the relevant local expenditure for the year in question by the sum of the following amounts, that is to say, the rateable value credited to the county or large burgh for that year and the product of a rate of one pound in the pound for the county or large burgh for that year.

Meaning of
"the relevant
fraction."

(2) In this section, the expression "the relevant local expenditure" means in relation to any county or large burgh so much of the total expenditure for the year as would have to be met out of rates levied within the county or large burgh if no Exchequer Grants under this Part of this Act and (so far as any such Grant is relevant to the year in question) no Exchequer Grants payable for any previous year under the Local Government (Scotland) Acts, 1929 to 1946, were payable, and if no

PART II.
—cont.

grants had been made out of moneys provided by Parliament to the council of the county or burgh by the Secretary of State by way of special assistance in respect of their financial difficulties arising out of the war.

(3) The provisions of subsection (2) of this section shall, as respects the year 1948-49, have effect subject to the special provisions relating to Exchequer Grants for that year contained hereafter in this Part of this Act.

Exchequer
Transitional
Grants for first
five years.

21.—(1) The Secretary of State shall estimate in relation to each county and large burgh in Scotland the sums specified in subsections (2) and (3) of this section, being, in every case, sums estimated for the year 1947-48.

(2) The Secretary of State shall first estimate—

(a) the aggregate of all Exchequer Grants payable under the Local Government (Scotland) Acts, 1929 to 1946, to the council of the county or large burgh, less any contributions payable by the council of the county or large burgh under section sixteen of the Old Age and Widows' Pensions Act, 1940;

(b) in the case of a burgh being a county of a city, the grant payable to the council in accordance with regulations under paragraph (12) of section seventy of the Education (Scotland) Act, 1946; in the case of a county, the grant payable as aforesaid to the council under deduction of the proper proportion thereof applicable to any large burgh situate in the county; and in the case of a large burgh not being a county of a city, the proper proportion applicable thereto of the grant payable as aforesaid to the council of the county in which such burgh is situate; and

(c) the product of a rate of four and four-fifths pence in the pound for the county or large burgh.

(3) The Secretary of State shall then estimate—

(a) the aggregate of so much of the expenditure incurred by the council of the county or large burgh in—

(i) providing services which it will be the duty of the Secretary of State to provide under Part II of the National Health Service (Scotland) Act, 1947; and

(ii) performing any functions falling to be discontinued by virtue of any Act of the present Session terminating the existing poor law, as would have had to be met out of rates levied in the county or large burgh if no Exchequer Grants under the Local Government (Scotland) Acts, 1929

9 & 10 Geo. 6.
c. 72.

10 & 11 Geo. 6.
c. 27.

to 1946, and no contributions under section sixteen of the Old Age and Widows' Pensions Act, 1940, had been payable;

- (b) the sum which would have been the sum required to be estimated in accordance with paragraph (b) of subsection (2) of this section if for the regulations under the enactment mentioned in that paragraph there had been substituted the provisions of such regulations made thereunder as determined the grants payable for the year 1948-49;
- (c) the Exchequer Equalisation Grant, if any, which would have been payable to the council of the county or large burgh if—
- (i) this Part of this Act had applied to the year 1947-48 and the third fixed grant period had terminated on the sixteenth day of May, nineteen hundred and forty-seven; and
 - (ii) the sum estimated under paragraph (b) of this subsection had been payable under paragraph (12) of section seventy of the Education (Scotland) Act, 1946, in lieu of the sum mentioned in paragraph (b) of subsection (2) of this section; and
 - (iii) the sixteenth day of May, nineteen hundred and forty-seven had also been both the appointed day for the purposes of Part II of the National Health Service (Scotland) Act, 1947, and the day appointed for the discontinuance of the functions falling to be discontinued by virtue of any Act of the present Session terminating the existing poor law, and the relevant local expenditure in relation to the county or large burgh had been diminished accordingly.

(4) If for any county or large burgh the total of the sums estimated by the Secretary of State under subsection (2) of this section exceeds the total of the sums so estimated under subsection (3) thereof, there shall be payable out of moneys provided by Parliament to the council of the county or large burgh grants for the year 1948-49 and each of the four following years.

(5) The amount of the grant for the year 1948-49 shall be the amount of the said excess and the amounts of the grants for the four following years shall be respectively four-fifths, three-fifths, two-fifths and one-fifth of the amount of the said excess.

(6) Grants under this section are in the subsequent provisions of this Part of this Act referred to as " Exchequer Transitional Grants ".

PART II.

—cont.

Power to
reduce
Exchequer
Grants.

22.—(1) The Secretary of State may, subject to the provisions of this section, reduce any Exchequer Equalisation Grant or Exchequer Transitional Grant payable to a council by such amount as he thinks just, if—

- (a) he is satisfied, either upon representations made to him or without any such representations, that the council have failed to achieve or maintain a reasonable standard of efficiency and progress in the discharge of their functions, regard being had to the standards maintained in other areas; or
- (b) he is satisfied that the expenditure of the council has been excessive and unreasonable, regard being had to the financial resources and other relevant circumstances of the area.

(2) Before reducing any grant by virtue of this section the Secretary of State shall make and cause to be laid before Parliament a report stating the amount of the reduction, and the reasons therefor, and he shall not make the reduction until the said report is approved by a resolution of the Commons House of Parliament.

Provisions as to
Health Service
Exchequer
Grants

23.—(1) The amount of any grant payable out of moneys provided by Parliament under subsection (1) of section fifty-three of the National Health Service (Scotland) Act, 1947, to a local health authority shall, in lieu of being determined by regulations under the said subsection (1), be one-half of the expenditure in respect of which the grant is made.

(2) The provisions of the last preceding section shall apply in relation to grants payable under the said section fifty-three as they apply in relation to Exchequer Equalisation Grants and Exchequer Transitional Grants, subject to the following modifications, that is to say—

- (a) the reference in paragraph (a) of subsection (1) of that section to the discharge of their functions by the council shall be construed as a reference to the discharge of their functions under the National Health Service (Scotland) Act, 1947, by the local health authority; and
- (b) the reference in paragraph (b) of the said subsection (1) to the expenditure of the council shall be construed as a reference to the expenditure of the local health authority under the said Act.

Power to pay
council's
contributions
to voluntary
associations
out of sums
payable as
Exchequer
grants.

24.—(1) Upon application being made to the Secretary of State by the council of any county or large burgh requesting that the contributions of the council towards the expenses of any voluntary association having as its object the promotion of public health services should be paid directly to the association out of an Exchequer Equalisation Grant or an Exchequer

Transitional Grant to the council, the Secretary of State may pay such contribution accordingly, and any payment so made by him shall be deemed to be a payment to the council on account of the Grant.

PART II.
—cont.

(2) References in any enactment to section sixty-eight of the Local Government (Scotland) Act, 1929, and to the General Exchequer Grant, shall be construed respectively as references to the last foregoing subsection, and to the Exchequer Equalisation Grant or Exchequer Transitional Grant. 19 & 20 Geo. 5.
c. 25.

*Payments out of Exchequer Equalisation Grant to
small burghs and landward areas.*

25.—(1) For the year 1948-49 and each subsequent year, there shall— Payments to
small burghs
and landward
areas.

- (a) be paid to the council of each small burgh; and
- (b) be set aside for behoof of the landward area of each county,

the sums hereinafter specified.

(2) The said sums shall be arrived at as follows:—

- (a) a sum equal to one-half of the aggregate of Exchequer Equalisation Grants payable under this Part of this Act for that year to the county councils shall be divided by the aggregate of the populations of the counties;
- (b) the sum to be paid to the council of a small burgh shall be the sum ascertained under the last foregoing paragraph multiplied by the population of the burgh;
- (c) the sum to be set aside for behoof of the landward area of a county shall be such sum as amounts to two-thirds of the sum ascertained under paragraph (a) of this subsection multiplied by the population of the landward area.

(3) The sums payable under the foregoing provisions of this section to the council of a small burgh or to be set aside for behoof of the landward area of a county shall be paid by the Secretary of State to the council of the burgh, or the council of the county as the case may be, and shall be deducted from the Exchequer Equalisation Grant payable to the council of the county comprising the small burgh or the landward area as the case may be:

Provided that, if no such Grant is payable to the county council, or if the Grant so payable is insufficient to pay the sums due to the small burgh and the landward area, those sums, or the balance thereof as the case may be, shall be recoverable by the Secretary of State from the county council,

PART II.
—cont.

and any sum so recoverable shall be deemed to be expenditure on functions for which small burghs are included within the county.

Miscellaneous.

Discontinuance of burden payments on changes of boundary. 10 & 11 Geo. 6. c. 43.

26. No provision shall be made for any payment to a local authority under subsection (1) of section one hundred and forty-two of the Local Government (Scotland) Act, 1947, in respect of any increase of burden due to an alteration of boundaries or other change taking place after the end of the year 1947-48.

Continuation of third fixed grant period for certain purposes. 1 Edw. 8. and 1 Geo. 6. c. 30.

27.—(1) This section shall have effect as respects the following enactments (which contain financial provisions relating to the third fixed grant period), that is to say section three of the Maternity Services (Scotland) Act, 1937 and section two of the Cancer Act, 1939, (under which Exchequer grants are payable in respect of expenditure imposed by those Acts).

(2) Notwithstanding the preceding provisions of this Part of this Act, the third fixed grant period shall not for the purposes of either of the said enactments be deemed to have terminated until immediately before the day which is the appointed day for the purposes of Part II of the National Health Service (Scotland) Act, 1947, and payments shall be made accordingly.

(3) If the date on which either of the said enactments ceases to be in force (either by virtue of an Order in Council fixing an appointed day under the National Health Service (Scotland) Act, 1947, or of any Act of the present Session terminating the existing poor law) is a date before the end of the year 1948-49, the enactment in question shall have effect so as to require the sum to be set aside or paid for the said year under that enactment to be the appropriate fraction of the estimated amount which would have been so set aside or paid if the said enactment had continued in force for the whole of the said year.

The appropriate fraction is the number of days in the period beginning with the first day of the said year and ending immediately before the date on which the enactment ceases to be in force divided by three hundred and sixty-five.

Special provisions as to Exchequer Grants for 1948-49.

28.—(1) The provisions of this section shall have effect if the appointed day for the purposes of Part II of the National Health Service (Scotland) Act, 1947, is after the beginning of, but within, the year 1948-49.

(2) The Secretary of State shall ascertain, in relation to every county and large burgh in Scotland, the total amount of the Exchequer Grants payable under the Local Government (Scotland) Acts, 1929 to 1946, to the council of the county or burgh for the year 1947-48.

(3) The Secretary of State shall then ascertain, in relation to each such county and large burgh as aforesaid, the amount of the contribution payable under section sixteen of the Old Age and Widows' Pensions Act, 1940, by the council of the county or burgh for the year 1947-48.

(4) There shall be paid out of moneys provided by Parliament to the council of each such county or large burgh as aforesaid such sum as bears to the excess of the amount estimated under subsection (2) of this section in relation to the county or large burgh over the amount estimated under subsection (3) of this section in relation thereto the like proportion as the number of days in the part of the year 1948-49 which precedes the appointed day for the purposes of Part II of the National Health Service (Scotland) Act, 1947, bears to the number of days in the whole of that year.

(5) The amounts paid under the last preceding subsection shall be paid in addition to any sum otherwise payable by way of Exchequer Equalisation Grant for the year 1948-49 but shall, subject to the provisions of the two succeeding subsections, be treated for the purposes of this Part of this Act as, or, as the case may be, as part of, the Exchequer Equalisation Grant to the council in question for that year, and references in this Part of this Act to Exchequer Equalisation Grants shall be construed accordingly.

(6) In computing the amount of the Exchequer Equalisation Grant falling to be made apart from the preceding provisions of this section to any council for the year 1948-49, the relevant fraction for that council shall be ascertained as if the relevant local expenditure were diminished by the amount payable under subsection (4) of this section.

(7) In computing the amounts of the Exchequer Transitional Grants, the amounts payable under subsection (4) of this section shall be left out of account.

29. All sums received by a county council by way of Exchequer Equalisation Grant or Exchequer Transitional Grant shall be applied towards meeting the expenditure of the council (other than any part thereof apportioned and allocated to large burghs in respect of education or police) on all purposes for which the county council exercise functions throughout the whole county, including the small burghs therein, and all sums so received by the town council of a large burgh, and all sums received by the town council of a small burgh under section twenty-five of this Act, shall be applied proportionately towards meeting the expenditure which but for the said sums would

Application of
Grants
payable under
Part II.

PART II.
—cont.

be defrayed out of those portions of the burgh rate as are respectively payable—

- (a) by occupiers and owners in equal proportions;
- (b) wholly by owners; and
- (c) wholly by occupiers.

Investigation into working of provisions as to amount of payments to local authorities under Part II.

30.—(1) In the year 1952-53, or such later year not later than 1955-56 as the Secretary of State may determine, and every fifth subsequent year, the Secretary of State shall, in consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, cause investigations to be made into the working of this Part of this Act (due regard being had, amongst other things, to the sums falling to be paid to local authorities under Part V of this Act):

Provided that if the Secretary of State is satisfied on representations made to him by any local authority or by any such association as aforesaid that the first of the said investigations should be made in a year prior to the year 1952-53, he shall cause an investigation to be made in that prior year, and in that event the foregoing provisions of this section shall have effect with the substitution of that prior year for the year 1952-53 or such later year as aforesaid.

(2) The Secretary of State shall cause a report of the result of any investigation under this section to be laid before Parliament.

Supplemental provisions as to Part II.

31.—(1) The Secretary of State may make regulations for carrying this Part of this Act into effect and in particular—

- (a) for determining the manner in which, subject to the express provisions of this Part of this Act, any calculation or estimate is to be made for any of the purposes of this Part of this Act and, in particular, for determining—
 - (i) the authority or person by or to whom any information required for the said purposes is to be given and the time at which and the form in which it is to be given;
 - (ii) the adjustments to be made for any abnormal treatment of income or expenditure in accounts;

(b) for determining the times at which payments in respect of Exchequer Equalisation Grants and Exchequer Transitional Grants and payments by local

authorities under this Part of this Act are to be made;

PART II.
—cont.

- (c) for providing that the calculations or estimates by reference to which any payments or grants are made may be treated as either conclusive or provisional or conclusive for some purposes and provisional for other purposes and, in so far as they are treated as provisional, for the making of further calculations or estimates based on information not previously available and for adjusting, in the light thereof, any payments or grants already made;
- (d) for modifying the operation of this Part of this Act in relation to any authority if and in so far as any such modification is required in relation to that authority in consequence of any alterations or combinations of authorities or alterations of boundaries:

Provided that regulations shall not be made under paragraph (b) of this subsection with respect to Exchequer Equalisation Grants or Exchequer Transitional Grants except with the consent of the Treasury.

(2) The population of a county (exclusive of any burgh situate therein) or of any burgh in Scotland and the number of children under fifteen years of age in a county or large burgh in Scotland shall be calculated for the purposes of this Part of this Act by reference to estimates of the Registrar-General of Births, Deaths and Marriages in Scotland, and the road-mileage of an area shall be taken for the purposes of this Part of this Act to be the total mileage of highways maintained and managed by local authorities or by the Minister of Transport in that area as estimated by the Minister of Transport.

(3) Any reference in any enactment to grants under Part III of the Local Government (Scotland) Act, 1929, shall be construed as a reference to grants under this Part of this Act.

(4) In this Part of this Act, except where the context otherwise requires, the expression "county" means a county inclusive of any small burgh situate therein; and the expressions "county" and "county council" mean in relation to counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, the combined county and the joint county council.

32. This Part of this Act extends to Scotland only.

Extent of
Part II.

PART III.

VALUATION AND RATING PROCEDURE.

General.

Valuations
to be made by
Inland
Revenue
officers.

33.—(1) Valuation lists shall, instead of being prepared and amended by the bodies and at the times, in accordance with the conditions and subject to the rights as to objection and appeal specified in the Rating and Valuation Acts, 1925 to 1940, and the Rating and Valuation (Metropolis) Acts, 1869 to 1940, be prepared and amended by valuation officers of the Commissioners of Inland Revenue at the times, in accordance with the conditions and subject to the rights as to objection and appeal specified in this Part of this Act ; and

- (a) assessment committees, county valuation committees and the central valuation committee shall cease to exist ; and
- (b) save as hereafter provided in this Part of this Act, rating authorities shall have no functions in relation to the preparation and amendment of valuation lists.

(2) Nothing in this section affects any rights of a rating authority as a person who is aggrieved by anything done or omitted to be done by the valuation officer in a valuation list or draft valuation list in relation to any hereditament.

(3) In this Part of this Act, the expression " the valuation officer ", in relation to a valuation list, means such officer of the Commissioners of Inland Revenue as may for the time being be authorised by the Commissioners to act (either generally or for the particular purpose in question) as the valuation officer in relation to that list.

Preparation of new lists.

New valuation
lists to be
made in 1952,
etc.

34.—(1) Subject to the provisions of subsection (3) of this section, a new valuation list shall be made for every rating area so as to come into force—

- (a) outside London, on the first day of April, nineteen hundred and fifty-two ; and
- (b) inside London, on the sixth day of April, nineteen hundred and fifty-two,

and the periods for which the valuation lists in force at the date of the passing of this Act are to remain in force shall be extended accordingly :

Provided that the Minister may by order, on the application of the valuation officer and after consultation with the rating authority for the area and, where the rating area forms part of a county, with the council of the county, direct that this subsection shall have effect in relation to any such rating area as is specified in the direction as if for references to the year nineteen hundred and fifty-two there were substituted references to the year nineteen hundred and fifty-three.

(2) Thereafter new valuation lists shall, subject to the provisions of subsection (3) of this section, be made for all rating areas, whether within or outside London, so as to come into force on the first day of April in the following years, that is to say, the year nineteen hundred and fifty-seven and each fifth subsequent year.

(3) If the Minister by order so directs, the preceding provisions of this section shall have effect as if for the words "nineteen hundred and fifty-two", "nineteen hundred and fifty-three" and "nineteen hundred and fifty-seven", in all places where those words occur, there were substituted the words "nineteen hundred and fifty-three", "nineteen hundred and fifty-four" and "nineteen hundred and fifty-eight", respectively.

(4) Every valuation list shall remain in force until it is superseded by a new valuation list.

35.—(1) Where a new valuation list is to be made for a rating area, the valuation officer shall— Draft lists.

- (a) prepare a draft valuation list ;
- (b) when the draft is completed, transmit three copies thereof to the rating authority ;
- (c) forthwith publish in the prescribed manner notice that the draft has been completed ;
- (d) where there is included in the draft as completed some hereditament not previously assessed, send, within the seven days following that of the completion of the draft, to the occupier of that hereditament a notice of the gross, net annual and rateable values of the hereditament inserted in the draft list.

(2) For the period beginning with the date on which the copies of the completed draft are received by the rating authority and ending twenty-one days after the date on which the notice of the completion of the draft list is published as aforesaid, one of the said copies shall be open to inspection during ordinary business hours at the offices of the rating authority, and the said notice shall include a statement that a copy of the draft list is open to inspection as aforesaid and a statement of the right of objection conferred by the next succeeding section.

(3) Notwithstanding anything in the Rating and Valuation (Apportionment) Act, 1928, the valuation officer, in preparing the draft of a valuation list, shall not treat any hereditament as an agricultural, industrial or freight transport hereditament unless either— 18 & 19 Geo. 5.
c. 44.

- (a) it was so treated for the purposes of the last preceding list ; or
- (b) a claim that it ought to be so treated has been made to him by the owner or occupier of the hereditament in the prescribed form.

PART III.
—cont.
Objections to
draft lists.

36.—(1) Any person who is aggrieved—

- (a) by the inclusion of any hereditament in the draft list ; or
- (b) by any value ascribed in the draft list to a hereditament or by any other statement made or omitted to be made in the draft list with respect to a hereditament ; or
- (c) in the case of a building or portion of a building occupied in parts, by the valuation in the list of that building or portion of a building as a single hereditament,

may, at any time before the expiration of twenty-five days from the date of the publication of notice of the completion of the draft list, serve on the valuation officer notice of objection to the draft list so far as it relates to that hereditament.

(2) Every notice of objection under this section shall be in writing and state the grounds on which the objection is made and the amendments desired to remove the objection.

Revision of
draft lists.

37.—(1) After the expiration of the period limited for the lodging of notices of objection to a draft valuation list, the valuation officer shall revise the draft and may, on that revision, make such alterations in the list, whether for the purpose of meeting an objection or for any other reason, as he thinks proper :

Provided that, in revising the draft, the valuation officer shall not treat any hereditament as an agricultural, industrial or freight transport hereditament unless either—

- (a) it was so treated for the purposes of the last preceding list ; or
- (b) a claim that it ought to be so treated has been made to him by the owner or occupier of the hereditament in the prescribed form ; or
- (c) an objection has been made on the ground that it ought to be so treated.

(2) Where, on his revision, the valuation officer makes any alteration in the list, whether for the purpose of meeting an objection or for some other reason, he shall forthwith serve notice of the alteration on the occupier of the hereditament to which the alteration relates and on the rating authority for the area in which the hereditament is situated :

Provided that no notice need be served on the occupier (not being the rating authority) under this subsection where the occupier has not served notice of objection under the last preceding section with respect to the hereditament and the alteration consists only in a reduction in any value ascribed to the hereditament.

(3) Where notice of objection has been served under the last preceding section, then, whether or not the valuation officer makes, on his revision, any alteration in the list for the purpose of meeting the objection, he shall, on the completion of the revision, forthwith serve on the person who made the objection

a notice stating whether he has made any and if so what alteration in the list with respect to the hereditament to which the objection relates :

PART III.
—cont.

Provided that no notice need be served under this subsection on any person on whom a notice with respect to the hereditament falls to be served under subsection (2) of this section.

(4) Any person on whom a notice is served under the last preceding subsection, the rating authority for the area within which the hereditament is situated and, where a notice is served on the occupier under subsection (2) of this section, any person who is the owner or occupier of the whole or any part of the hereditament in question, may, by notice of appeal served on the valuation officer, appeal to a local valuation court with respect to the hereditament in question.

(5) A notice of appeal shall be in writing and shall be served—

- (a) in the case of a person on whom notice has been served under subsection (3) of this section, before the expiration of the twenty-one days following that of the service on him of that notice ;
- (b) in the case of the rating authority, where they do not receive notice under subsection (3) of this section, before the expiration of the twenty-one days following that of the service on the authority of the notice specified in subsection (2) of this section ;
- (c) in any other case, before the expiration of the twenty-one days following that of the service on the occupier of the hereditament of the notice specified in subsection (2) of this section,

and shall contain a statement of the grounds of the appeal.

(6) The valuation officer shall, within seven days after the date on which a notice of appeal is served upon him under this section, transmit a copy thereof to each of the following persons, not being the appellant, that is to say—

- (a) to the occupier of the hereditament in question ; and
- (b) to the rating authority for the area in which the hereditament in question is situated.

(7) Any notice served under subsection (2) or subsection (3) of this section shall be in writing and shall include a statement of the rights of appeal conferred by this section.

38.—(1) The valuation officer shall, at or about, and in any case not later than, the end of December preceding the date on which a new valuation list is to come into force, settle the list, sign it, and transmit it to the rating authority, and transmit to the clerk of the local valuation panel a notification of the settling and signing of the list and of the date of the settling and signing thereof.

Settling of
valuation
list.

E

PART III.
—cont.

(2) Before settling and signing the list, the valuation officer shall make such alterations therein as are necessary to give effect to any decisions given on appeal with respect to the list before the date of the settling thereof and, where a notice of appeal has been given with respect to a hereditament and has been withdrawn as the result of an agreement made between the valuation officer, the appellant and any other person entitled to be heard on the appeal, such alterations, if any, as are necessary to give effect to the agreement.

(3) Before settling and signing the list, the valuation officer shall cause such particulars with respect to totals of values as may be prescribed, both in respect of the whole rating area and in respect of any parish or other area which is liable to be charged separately under any precept or to bear any special expenses, to be ascertained and inserted in the list.

(4) Save as aforesaid, and subject to any alteration made for the purpose of correcting any clerical or arithmetical error, the list as settled and signed shall be identical with the draft list as revised under the last preceding section.

(5) The valuation officer shall not be required to await the hearing and determination of all appeals before settling and signing the list, and if any appeal is not heard and determined before the list is settled and signed, it shall, unless withdrawn, be heard and determined as soon as possible thereafter, and with the like consequences as if it had been an appeal against an objection to a proposal duly made in accordance with the subsequent provisions of this Part of this Act for the alteration of the current valuation list and served on the valuation officer on the date on which that list comes into force.

(6) The list for any rating area settled, signed and sent to the rating authority as aforesaid shall, as from the date when it comes into force and subject to any alterations made in accordance with this Part of this Act, be the valuation list for the rating area, and any failure on the part of a valuation officer to complete any proceedings with respect to the preparation, revision or settling and signing of the list within the time required by this Part of this Act, or any omission from the list of any matters required by law to be included therein, shall not of itself render the list invalid; and, until the contrary is proved, the list shall be deemed to have been duly made in accordance with the provisions of this Part of this Act.

Duty of rating
authority as
respects
valuation list.

39.—(1) The rating authority on receiving a valuation list shall deposit it at the offices of the authority.

(2) The rating authority shall give effect to any directions which may from time to time be given to them by the valuation officer in pursuance of the provisions of this Part of this Act authorising or requiring the valuation officer to cause alterations to be made in valuation lists.

Alteration of current valuation lists.

PART III.

—cont.

Proposals for
alteration
of lists.

40.—(1) Any person who is aggrieved—

- (a) by the inclusion of any hereditament in the list ; or
- (b) by any value ascribed in the list to a hereditament or by any other statement made or omitted to be made in the list with respect to a hereditament ; or
- (c) in the case of a building or portion of a building occupied in parts, by the valuation in the list of that building or portion of a building as a single hereditament,

may at any time make a proposal for the alteration of the list so far as it relates to that hereditament.

(2) The valuation officer may at any time make a proposal for any alteration of a valuation list.

(3) Any such proposal as is mentioned in the previous provisions of this section is in this Part of this Act referred to as "a proposal".

41.—(1) Every proposal must—

Proceedings
on proposals

- (a) be made in writing and, except where it is made by the valuation officer, be served on the valuation officer ;
- (b) specify the grounds on which the proposed alteration is supported ;
- (c) comply with any requirements of any regulations made by the Minister with respect to the form of proposals and otherwise with respect to the making thereof.

(2) The valuation officer shall, within seven days after the date on which a proposal is made by or served on him, transmit a copy thereof, together with a statement in writing of the right of objection conferred by the subsequent provisions of this section, to each of the following persons, not being the maker of the proposal, that is to say—

- (a) the occupier of the hereditament to which the proposal relates ; and
- (b) the rating authority for the area in which the hereditament in question is situated :

Provided that a copy of the proposal need not be transmitted under this subsection to the occupier of the hereditament (not being the rating authority) where the proposal is made otherwise than by the valuation officer and the alteration asked for by the proposal consists only of a reduction in any value ascribed to the hereditament.

(3) Any of the following persons, that is to say, the owner or occupier of the whole or any part of a hereditament to which a proposal relates or the rating authority for the area in which the

PART III.
—cont.

hereditament is situated may, within twenty-one days from the date on which notice is served under subsection (2) of this section on the occupier or, in the case of the rating authority (where they are not the occupier), on the rating authority, serve on the valuation officer notice in writing of objection to the proposal, and the valuation officer shall, within seven days of the date on which a notice of objection is served on him, transmit a copy thereof to the maker of the proposal.

(4) Where the proposal is made otherwise than by the valuation officer, the valuation officer may, within twenty-one days from the date on which the proposal is served on him, serve on the maker of the proposal notice in writing of objection to the proposal.

(5) Where, on the expiration of the times limited by subsections (3) and (4) of this section for the service of notice of objection, no such notice has been served or where every such notice is unconditionally withdrawn, the valuation officer shall cause such alteration to be made in the list as will give effect to the proposal.

(6) Where notice of objection is made and is not unconditionally withdrawn—

the person making the proposal may, by notice of appeal served within the time and on the persons hereinafter mentioned, appeal against the objection to a local valuation court; and

(b) no alteration shall be made in the list in pursuance of the proposal except where notice of appeal is given as aforesaid and then only either—

(i) in pursuance of the directions of a court or arbitrator given under the subsequent provisions of this Part of this Act; or

(ii) by agreement between all the persons entitled to be heard on the appeal.

(7) A notice of appeal under this section shall be in writing, shall be served within twenty-one days from the date when a copy of the notice of objection is received by the appellant or, as the case may be, from the service on the appellant of the notice of objection, and shall be so served—

(a) on the person making the objection; and

(b) where the rating authority for the area in which the hereditament in question is situated have neither made the objection nor are themselves the appellant, on that authority; and

(c) where the valuation officer has neither made the objection nor is himself the appellant, on the valuation officer.

42.—(1) Subject to the provisions of this section, an alteration made in the valuation list in pursuance of a proposal (whether under the last preceding section or under the directions of a court or arbitrator given by virtue of the subsequent provisions of this Part of this Act) shall, in relation to any rate current at the date when the proposal in pursuance of which the amendment so made was served on the valuation officer, or, where the proposal was made by the valuation officer, current at the date when notice of the proposal was served on the occupier of the hereditament in question, be deemed to have had effect as from the commencement of the period in respect of which the rate was made, and shall, subject to the provisions of this section, have effect for the purposes of any subsequent rate.

PART III.
—cont.
Effect of
alterations
made in
pursuance of
proposals.

(2) Notwithstanding anything in subsection (1) of this section, an alteration in the valuation list which either—

- (a) consists of the inclusion in the valuation list of a newly erected or newly constructed hereditament or an altered hereditament which has been out of occupation on account of structural alterations ; or
- (b) is made by reason of a change in the value of a hereditament caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause ; or
- (c) is made by reason of any hereditament having become or ceased to be an agricultural, industrial or freight transport hereditament, or of a change in the proportion in which an industrial or freight transport hereditament is occupied and used for industrial or, as the case may be, transport purposes and for other purposes respectively ; or
- (d) is made by reason of any hereditament becoming or ceasing to be a hereditament which, under Part V of this Act, is not liable to be rated ; or
- (e) is made by reason of any change in the extent to which a railway or canal hereditament, as defined for the purposes of Part V of this Act, is occupied for non-rateable purposes, as so defined ; or
- (f) is made by reason of any property previously rated as a single hereditament becoming liable to be rated in parts ; or
- (g) is made by reason of any property previously rated in parts becoming liable to be rated as a single hereditament.

shall have effect only as from the date when the new or altered hereditament comes into occupation, or as from the happening

PART III.
—cont.

of the event by reason of which the alteration is made, as the case may be.

(3) Where in pursuance of a proposal an alteration is made in the valuation list which affects the amount of any rate levied in respect of any hereditament in accordance with the list, the difference, if too much has been paid, shall be repaid or allowed or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate.

Clerical and
arithmetical
errors.

43. The valuation officer may at any time cause to be made in a valuation list any alteration which is necessary to correct any clerical or arithmetical error therein and the list shall have effect accordingly, but if the alteration is made in respect of any matter other than totals, the officer shall, before causing the alteration to be made, send notice thereof to the occupier of the hereditament affected and to the rating authority of the rating area, and shall allow fourteen days to elapse during which any person concerned may object to the proposed alteration.

Appeals.

Local
valuation
courts.

44.—(1) Local valuation courts constituted as hereinafter provided shall be convened as often as may be necessary for the purpose of hearing and determining appeals under the preceding provisions of this Part of this Act against draft valuation lists and against objections to proposals for the alteration of valuation lists.

(2) The local valuation court which hears and determines an appeal with respect to a hereditament shall consist of members of a local valuation panel constituted under such a scheme as is mentioned in the next succeeding section, being the panel for the area within which that hereditament is situated :

Provided that regulations made by the Minister may provide, in relation to hereditaments the value of which is or may be ascertained by reference to the accounts, receipts or profits of an undertaking carried on thereon, that jurisdiction as respects all or any of the hereditaments occupied for the purposes of a particular undertaking shall be exercised by a local valuation court consisting of members of such one of the local valuation panels within whose areas any of those hereditaments are situated as may be specified by or under the regulations.

(3) Every such court shall consist of—

- (a) either the chairman of the local valuation panel or the deputy chairman (or, if more than one, one of the deputy chairmen) thereof ; and
- (b) two other members of the panel selected in accordance with the scheme under which the panel is constituted.

45.—(1) It shall be the duty of the council of every county and county borough to make and submit to the Minister a scheme for the constitution of a local valuation panel for the county or county borough or two or more local valuation panels for areas which together comprise the whole of the county or county borough :

PART III.
—cont.
Submission
and approval
of schemes.

Provided that any two or more councils, whether councils of counties or of county boroughs, may, and, if so directed by the Minister, shall, make and submit to the Minister a joint scheme for the constitution of a local valuation panel or local valuation panels for the whole of their respective areas, or for areas which together comprise the whole of their respective areas.

(2) As soon as a scheme has been submitted to the Minister under this section, the council or councils submitting the scheme shall publish in one or more newspapers circulating in their area or areas a notice stating that the scheme has been so submitted and that a copy is open to inspection at a specified place ; and, where the said area or areas or either of them are counties, the council or councils submitting the scheme shall, at the same time as they submit it, send a copy thereof to each of the rating authorities within that county or, as the case may be, those counties.

(3) No scheme submitted to the Minister under this section shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any objections to the scheme which may be submitted to him by persons appearing to him to be interested, may approve the scheme with or without modifications.

(4) If, on the expiration of nine months from the date of the coming into force of this section, there remains any area which is not covered by any of the schemes which have by then been submitted under this section, or which is covered only by a scheme which the Minister is not prepared to approve, the Minister may himself make a scheme for the constitution of a local valuation panel or local valuation panels for that area, and the scheme when so made shall have effect as if it had been submitted by the council of the county or county borough in question or, as the case may be, by the councils of all the counties and county boroughs in question, and had been approved by the Minister.

(5) Any scheme made under this section may be revoked or varied—

- (a) by a new scheme made and submitted to and approved by the Minister in accordance with the provisions (subject to any necessary modification) of subsections (1) to (3) of this section ; or

PART III.
—cont.

(b) by a new scheme made by the Minister on a representation made by any local valuation panel or valuation officer and after consultation with the council of any county or county borough concerned.

(6) Before a scheme is made by the Minister under this section, he shall publish in one or more newspapers circulating in the area to which the scheme relates a notice stating his proposal to make the scheme, and that a copy of a draft of the scheme is open to inspection at a specified place, and specifying a date by which any person may send to him any representations respecting the draft.

Membership
of panels.

46.—(1) Schemes under the last preceding section shall provide, as respects the panels to which those schemes respectively relate—

- (a) for fixing the number of members of the panel and for determining their respective tenures of office and the persons by whom they are to be appointed respectively ;
- (b) for the appointment of one of those members as chairman of the panel and not more than two of the other members as deputy chairmen thereof ;
- (c) subject to the provisions of the last but one preceding section, for the manner in which members of local valuation courts are to be selected from members of the panel.

(2) A person shall be disqualified from being appointed or being a member of any local valuation panel as aforesaid if he is a person who has been adjudged bankrupt, or made a composition or arrangement with his creditors, or has within the five years immediately preceding his appointment or since his appointment been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine :

Provided that—

- (a) a disqualification attaching to a person under this subsection by reason of his having been adjudged bankrupt shall cease—
 - (i) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or that his debts have been paid in full, on the date of the annulment ; or
 - (ii) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, on the date of his discharge ; or
 - (iii) in any other case, on the expiration of five years from the date of his discharge ;

- (b) a disqualification attaching to a person under this section by reason of his having made a composition or arrangement with his creditors shall cease—
- PART III.
—cont.
- (i) if he pays his debts in full, on the date on which the payment is completed ; or
- (ii) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled ;
- (c) for the purposes of this subsection, the ordinary date on which the period allowed for making appeal from the conviction expires, or, if such appeal is made, the date on which it is finally disposed of or abandoned or fails by reason of the non-prosecution thereof, shall be deemed to be the date of the conviction.

47.—(1) To assist the panel, the chairman thereof and the local valuation courts constituted from members thereof in the performance of their functions under this Part of this Act, every local valuation panel shall appoint a person to be their clerk and may appoint such other officers and servants as they may, with the approval of the Minister, determine, and may pay to them such salaries, allowances and other remuneration as they may, with the approval of the Minister and the Treasury, determine, and every such panel shall be deemed for the purposes of the Local Government Superannuation Act, 1937, to be a local authority included in Part I of the First Schedule to that Act :

Staff,
expenses, etc.
of local
valuation
panels and
courts.

1 Edw. 8 and
1 Geo. 6. c. 68.

Provided that the functions of the officers and servants appointed under this subsection shall not extend to the valuation of hereditaments, and the power to appoint officers and servants conferred by this subsection shall be exercised accordingly.

(2) The expenses of every such panel, including the expenses of the local valuation courts from time to time constituted from the members thereof, shall be defrayed by the Minister out of moneys provided by Parliament.

(3) Minutes of the proceedings of a valuation panel and of the local valuation courts constituted from members thereof shall be kept in books provided for that purpose, and a minute of any such proceedings signed—

- (a) in the case of a meeting of the panel, at the same or the next subsequent meeting of the panel, by the person acting as chairman at the meeting at which the minute is signed ; and
- (b) in the case of a meeting of a local valuation court, at or not later than two days after the date of the meeting to which the minute relates, by the person acting as chairman at the meeting to which the minute relates,

shall be received in evidence without further proof.

PART III.
—*cont.*
Sittings,
procedure
and powers
of local valuation
courts.

48.—(1) Where notice of appeal to a local valuation court is served under the preceding provisions of this Part of this Act by or on the valuation officer, the valuation officer shall forthwith notify the clerk to the local valuation panel from the members of which the local valuation court which is to hear the appeal falls to be constituted, and it shall be the duty of the chairman of that panel to arrange for the convening of such a court.

(2) The procedure of local valuation courts shall, subject to such regulations, if any, as may be made in that behalf by the Minister, be such as the court in question may determine, and every such court—

(a) shall, unless the court otherwise order, on the application of any party to the appeal and upon being satisfied that the interests of either party would be prejudicially affected, sit in public ;

(b) may take evidence on oath and shall have power for that purpose to administer oaths.

(3) On the hearing of an appeal to a local valuation court—

(a) the appellant ; and

(b) the valuation officer, when he is not the appellant ; and

(c) the owner or occupier of the hereditament to which the appeal relates, when he is not the appellant ; and

(d) the rating authority for the area in which the hereditament in question is situated, when that authority is not the appellant ; and

(e) in the case of an appeal against an objection, the objector, where he is not one of the persons aforesaid,

shall be entitled to appear and be heard as parties to the appeal and to examine any witness before the court and to call witnesses.

(4) After hearing the persons mentioned in the last preceding subsection, or such of them as desire to be heard, the local valuation court shall give such directions with respect to the manner in which the hereditament in question is to be treated in the valuation list as appear to them to be necessary to give effect to the contention of the appellant if and so far as that contention appears to the court to be well founded, and the valuation officer shall incorporate in the list as settled, or, as the case may be, cause to be made in the list, such alterations as are necessary to give effect to those directions.

Appeal to
county court

49.—(1) Any person who, in pursuance of the last preceding section, appeared before a local valuation court on the hearing of an appeal and is aggrieved by the decision of the court thereon may, within twenty-one days from the date of the decision, appeal to the county court for the county court district in which

the hereditament in question is situated, or, where the hereditament extends into more than one county court district, to the county court for any one of the county court districts in which any part of the hereditament is situated, and the court, after hearing such of the persons as appeared as aforesaid as desire to be heard, may give any directions which the local valuation court might have given.

(2) The Lord Chancellor may by order—

- (a) combine two or more county court districts for the purposes of this section or direct that the whole or any part of a county court district shall for those purposes be deemed to be included in another county court district ;
- (b) where he combines two or more county court districts as aforesaid, make such provision as he thinks fit as to the judge who is to exercise the jurisdiction conferred by this section with respect to the combined districts, and as to the place at which the court for the combined districts is to be held.

Any order made under this subsection may contain such consequential and incidental provisions as appear to the Lord Chancellor to be necessary or expedient and may be revoked or varied by a subsequent order.

(3) The Minister may by regulations provide, in relation to hereditaments the value of which is or may be ascertained by reference to accounts, receipts or profits of an undertaking carried on thereon, that jurisdiction under this section shall, to such extent as may be specified in the regulations, be exercised, as respects all or any of the hereditaments occupied for the purposes of the undertaking, by such one of the county courts within whose districts any of those hereditaments are situated as may be specified by or under the regulations.

(4) In any proceedings under this section, the power of a judge under subsection (1) of section eighty-eight of the County Courts Act, 1934, to summon one or more persons to act as assessors may be exercised notwithstanding that no application is made in that behalf by any party to the proceedings. ^{24 & 25 Geo. 5. c. 53.}

50.—(1) Notwithstanding anything in the preceding provisions of this Part of this Act, the persons who would be entitled to appear and be heard before any local valuation court or any county court may by agreement in writing agree to refer to arbitration any matter which would but for the agreement fall to be heard or determined by that local valuation court or county court, and the matter shall be referred to arbitration accordingly. Arbitration.

(2) The Arbitration Acts, 1889 to 1934, shall apply to any such arbitration.

PART III.
—cont.

(3) The award in any such arbitration may include any directions which might under this Part of this Act have been given by the local valuation court or county court and effect shall be given to those directions as if they had been given by that court.

Provisions as to Rates.

Rate to be
levied not-
withstanding
appeal against
valuation list.

51. Any rate in respect of which the valuation list is conclusive shall be made and levied in accordance with the valuation list in force for the time being, and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to the list :

Provided that where in the case of any hereditament the value questioned by the appeal exceeds the value of that hereditament as last previously determined, whether under this Part of this Act or under the enactments repealed by this Act, the amount recoverable pending the decision of the appeal shall not, unless the hereditament has been substantially altered since its value was last previously determined, exceed the amount which would have been recoverable if its value had not been so increased.

Amendment
of rate.

52.—(1) Subject to the provisions of this section, the rating authority may at any time make such amendments in a rate (being either the current or the last preceding rate) as appear to them necessary in order to make the rate conform with the enactments relating thereto, and in particular may—

- (a) correct any clerical or arithmetical error in the rate ; or
- (b) correct any erroneous insertions or omissions, or mis-descriptions ; or
- (c) make such additions to or corrections in the rate as appear to the authority to be necessary by reason of—

(i) any newly erected hereditament or any hereditament which was unoccupied at the time of the making of the rate coming into occupation ; or

(ii) any change in the occupation of any hereditament ; or

(iii) any property previously rated as a single hereditament becoming liable to be rated in parts.

(2) Where the effect of the amendment would be either—

- (a) to alter, otherwise than by way of correction of a clerical or arithmetical error, the value on which a hereditament is rated ; or
- (b) to charge to the rate a hereditament not shown, or not separately shown, in the valuation list,

the rating authority shall not make any amendment of the rate unless either the amendment is necessary to bring the rate into

conformity with the valuation list or a proposal for a corresponding alteration of the valuation list has been made by the valuation officer ; and if effect, or full effect, is ultimately not given to such a proposal, and the amount of the rate levied in pursuance of the amendment is affected, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate.

PART III.
—cont.

(3) Every amendment made under paragraph (a) or paragraph (b) of subsection (1) of this section shall have effect as if it had been contained in the rate as originally made.

53. No appeal against a rate shall lie to quarter sessions in respect of any matter in respect of which relief might have been obtained under this Part of this Act by means of an objection to the draft valuation list, or an appeal against that list, or by means of a proposal for the amendment of the current valuation list, or by means of an objection to such a proposal, or by means of an appeal against such an objection.

Limits of right to appeal at quarter sessions against rate.

54.—(1) In London, as elsewhere, every rate made by a rating authority shall be deemed to be made on the date on which it is approved by the authority, and any enactments requiring that rates must be allowed by justices shall cease to have effect.

Rates in London.

(2) Section six of the Rating and Valuation Act, 1925 (which relates to the publication of rates) and section fifteen of that Act (which relates to the recovery of arrears of rates from tenants and lodgers) shall extend to London.

15 & 16 Geo. 5. c. 90.

(3) Nothing in this section affects the provisions of section twenty of the City of London (Union of Parishes) Act, 1907, relating to the signature of rates made by the Common Council of the City of London, the publication of such rates and the date on which such rates are to be deemed to be made.

7 Edw. 7. c. cxl.

Provisions as to Rating.

55.—(1) Subsection (1) of section eleven of the Rating and Valuation Act, 1925 (which imposes a limit on the rateable value of hereditaments outside London in respect of which owners may be rated instead of occupiers of thirteen pounds or, where at the passing of that Act a higher limit was in certain circumstances in force, that higher limit) for the words "thirteen pounds" there shall be substituted the words "eighteen pounds" and for the words "that higher limit" there shall be substituted the words "twenty-five pounds".

Rating of owners instead of occupiers.

(2) The Poor Rate Assessment and Collection Act, 1869, shall have effect as if in section three of that Act (which imposes a limit

32 & 33 Vict. c. 41.

PART III.
—cont.

of twenty pounds in the corresponding provisions relating to London) for the words "twenty pounds" there were substituted the words "twenty-five pounds".

Advertising stations to be separate hereditaments in certain cases.

56. Where the right to use any land (including any hoarding, frame, post, wall or structure erected or to be erected on the land, and including also any wall or other part of a building) for the purpose of exhibiting advertisements is let out or reserved to any person other than the occupier of the land, or, when the land is not occupied for any other purpose, to any person other than the owner of the land, that right shall be deemed for rating purposes to be a separate hereditament in the occupation of the person for the time being entitled to the right, and shall be included in the valuation list as a separate hereditament accordingly, and, notwithstanding anything in section three or section four of the Advertising Stations (Rating) Act, 1889, in estimating the value of the land for rating purposes no account shall be taken of any value or, as the case may be, of any increased value arising from the use of the land for the purpose of exhibiting advertisements in accordance with that right.

52 & 53 Vict.
c. 27.

Assessment of certain buildings occupied in parts.

57.—(1) Where a building which was constructed or has been adapted for the purposes of a single dwelling-house, or as to part thereof for such purpose, and as to the remainder thereof for any purpose other than that of a dwelling or residence, is occupied in parts, the valuation officer, in preparing or revising a draft valuation list or in altering a current valuation list, may, if he thinks fit, having regard to all the circumstances of the case, including the extent, if any, to which the parts separately occupied have been severed by structural alterations, treat the building or any portion thereof as a single hereditament, and a building or portion of a building so treated as a single hereditament shall, for the purposes of rating, be deemed to be a single hereditament in the occupation of the person who receives the rents payable in respect of the parts.

30 & 31 Vict.
c. 102.

(2) Section seven of the Representation of the People Act, 1867, and section twenty-three of the Rating and Valuation Act, 1925, are hereby repealed.

Returns, Inspection, etc.

Returns.

58.—(1) In every case where a new valuation list is to be made for any rating area, the valuation officer may serve a notice on the occupier, owner or lessee of any premises in the area, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him accurately to compile the list.

(2) The valuation officer may at any time, in connection with a proposal which has been made for the alteration of the valuation

list, or with a view to the making of such a proposal, serve a notice on the occupier, owner or lessee of any premises in the area, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him to decide whether or not to make, or, as the case may be, to object to, the proposal.

PART III.
—cont.

(3) Every person upon whom a notice to make a return is served in pursuance of the provisions of this section shall within twenty-one days after the date of the service of the notice make a return in such form as is required in such notice and deliver it in manner so required to the valuation officer.

(4) If any person on whom notice has been served under the provisions of this section fails without reasonable excuse to comply with the notice, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.

(5) Where a person is convicted under subsection (4) of this section in respect of a failure to comply with a notice and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under the said subsection (4) and may, on summary conviction, be punished accordingly.

(6) If any person, in a return made under this section, 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, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

59.—(1) The valuation officer may from time to time require the surveyor of taxes for the area covered by the valuation list to furnish to him a copy of the annual values for the time being in force for the purpose of income tax under Schedule A of the Income Tax Act, 1918, for all or any of the properties in that area : Duty of surveyor of taxes and local authorities. 8 & 9 Geo. 5. c. 40.

Provided that nothing in this section shall extend to annual values which by law are not allowed to be made public.

(2) If, in the course of the exercise of their functions, any information comes to the notice of any local authority which leads them to suppose that a valuation list requires alteration as respects a hereditament, it shall be the duty of that authority to inform the valuation officer.

In this subsection, the expression "local authority" includes any joint committee of any two or more local authorities and any joint authority on which any local authority is represented.

PART III.
—cont.Power of
entry.

60.—(1) The valuation officer and any person authorised by him in writing in that behalf shall have power, at all reasonable times and after giving not less than twenty-four hours' notice in writing and, in the case of a person authorised as aforesaid, on production, if so required, of his authority, to enter on, survey and value any hereditament in the area for which the valuation officer acts.

(2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

Evidence and
inspection of
valuation lists,
rates, etc.

61.—(1) The contents of a valuation list as for the time being in force, or an extract from any such list, may be proved by the production of a copy of the list or of the relevant part thereof purporting to be certified by the clerk of the rating authority to be a true copy.

(2) Section sixty of the Rating and Valuation Act, 1925 (which relates to inspection of documents by ratepayers)—

(a) shall extend to London ; and

(b) shall apply in relation to valuation lists made under this Part of this Act, to notices of appeal, notices of objection and proposals made thereunder, and to minutes of the proceedings of any local valuation court as it applies in relation to the documents specified in subsection (1) thereof ; and

(c) shall apply in relation to valuation officers (for whatever area) as it applies in relation to ratepayers.

*Miscellaneous.*Appeals as
to water
rates.

62.—(1) So much of any statutory provision as authorises or requires any dispute arising in relation to water rates to be determined by a court of summary jurisdiction shall have effect as if it authorised or required that dispute to be determined by the county court for the county court district in which the property in question is situated.

(2) The power to make orders conferred by subsection (2) of section forty-nine of this Act (which enables the Lord Chancellor to combine county court districts or direct that one county court district shall be included in another county court district for the purposes of that section) shall include power to make orders in relation to the purposes of this subsection, and the said subsection (2) shall have effect accordingly.

Service of
notices, etc.

63.—(1) Section fifty-nine of the Rating and Valuation Act, 1925, (which relates to the service of notices and similar matters) shall extend to London and shall apply in relation to any notice, demand note, order or other document required or authorised to

be sent or served under or for the purposes of any Act relating to the making, levying, collection and recovery of rates in London, and, both inside and outside London, in relation to notices and other documents required or authorised to be sent or served under or for the purposes of this Part of this Act as it applies in relation to notices, demand notes, orders and other documents required or authorised to be sent or served under or for the purposes of the first-mentioned Act.

PART III.
—cont.

(2) Any notice required by this Part of this Act to be served on the valuation officer need not name the valuation officer but may describe him as the valuation officer for the rating area in question, without further description, and may be served by post, and every notice published in pursuance of any of the provisions of this Part of this Act which contains a statement of a right of objection or appeal shall include a statement of the address to or at which notice of objection or notice of appeal, as the case may be, may be sent to the valuation officer or service thereof otherwise effected.

64. Any person may include in the same objection, proposal, appeal or other proceeding under this Part of this Act all or any hereditaments comprised in the same valuation list as respects which he has a right to make or bring any such objection, proposal, appeal or other proceeding, although they are separately assessed in that list.

Inclusion in one proceeding of separate hereditaments.

65. Subsection (3) of section sixty-four of the Rating and Valuation Act, 1925 (which regulates the manner in which Crown property is to be dealt with in valuation lists) shall extend to London.

Extension to London of provisions as to Crown property.

66.—(1) Every owner who is rated under section eleven of the Rating and Valuation Act, 1925, or section four of the Poor Rate Assessment and Collection Act, 1869, instead of the occupier, or who enters into an agreement with the rating authority under the said section eleven or under section three of the said Act of 1869, in respect of any hereditaments shall, without prejudice to the rights of the occupier of any of those hereditaments, be treated for the purposes of the provisions of this Part of this Act relating to objections, proposals and appeals as standing in the same position as the occupier.

Saving for position of owners in certain cases.

(2) Where any premises are unoccupied, any reference in this Part of this Act to the occupier shall be construed as a reference to the owner thereof :

Provided that where the owner is unknown and a notice addressed to the occupier has been served in the manner authorised by law for the service of notices on the occupier where the occupier is unknown, that notice shall be deemed to have been duly served on the owner.

PART III.
—cont.

Membership
of local
authority,
etc. not to be
disqualifica-
tion in
certain cases.

67.—(1) A person shall not be disqualified to act as a member of, or as the clerk or an officer of, a local valuation panel or local valuation court by reason only that he is—

- (a) a member of an authority deriving revenue directly or indirectly from rates which may be affected by the exercise of his functions; or
- (b) the owner or occupier of any property within any rating area the rates within which are affected by the exercise of his functions,

and a person shall not be disqualified from acting as aforesaid in relation to any property by reason only that an authority of which he is a member either owns or occupies the whole or any part of that property.

(2) A person shall not be disqualified to act as a valuation officer or as the judge on any appeal to a county court by reason only that he is the owner or occupier of any property within any rating area the rates within which are affected by the exercise of his functions.

(3) Nothing in this section shall authorise any person to whom this section applies to act in relation to any property which, or any part of which, he himself owns or occupies.

Transfer of
valuation
offices, etc.

68. If the Minister is satisfied that any premises which are, or any interest in which is, owned by a local authority are, or at some time during the year 1947–48 were, used by that authority wholly or mainly for the purpose of their functions relating to the valuation of property for rating purposes and that it is reasonable so to do, he may direct the authority to make over their interest to the Minister of Works, and where such a direction is given the like consequences shall ensue as would have ensued if a notice to treat had been given, on the date of the direction to the authority, by the Minister of Works in pursuance of a power conferred by Act of Parliament compulsorily to acquire that interest.

Use of public
rooms.

69.—(1) The valuation officer may request the permission of any county council or rating authority the whole or any part of whose area is within the area for which the officer acts for the use by him and his staff on such days or for such period as may be specified in the request of such premises belonging to the council or authority as may be so specified and the council or authority shall not unreasonably withhold their permission.

(2) The chairman of any local valuation panel may request the permission of any county council or rating authority the whole or any part of whose area is within the area for which the panel acts for the use for meetings of the panel or of any local valuation court constituted from members of the panel or for the use of the chairman, clerk or officers of the panel, on such

days as may be specified in the request of any premises belonging to the council or authority, and the council or authority shall not unreasonably withhold their permission.

PART III.
—cont.

(3) Any person having the control of any room maintained out of any rate may put that room at the disposal of the valuation officer or any local valuation panel or local valuation court for the purpose of the exercise by them or their officers, or, in the case of a panel, by the chairman thereof, of any functions directly or indirectly affecting the valuation list by reference to which that rate is levied.

(4) Where a request is made under subsection (1) or subsection (2) of this section, any dispute as to whether the permission of the county council or rating authority has been unreasonably withheld shall be determined by the Minister.

70.—(1) Save as otherwise expressly provided in this Act, nothing therein contained shall affect—

Savings and
application
of enactments.

(a) the principles on which hereditaments are to be valued or any privilege or any provision for the making of a valuation on any exceptional principle; or

(b) the contents or form of valuation lists; or

(c) the effect of valuation lists when made,

and accordingly enactments relating to the matters aforesaid shall have effect, with any necessary modifications, as if references to valuation lists included references to valuation lists made under this Part of this Act.

(2) The amendments specified in the First Schedule to this Act (being minor amendments consequential on the provisions of this Part of this Act) shall be made in the enactments referred to in that Schedule.

(3) The Minister may, if he in any particular case thinks fit, by order provide that such provisions of any local Act as may be specified in the order, being provisions relating to rating or valuation for rating to which, by reason of the provisions of this Part of this Act, effect can no longer be given, shall continue in force with such adaptations specified in the order as may be necessary to enable effect to be given to them.

71. Without prejudice to any other provision of this Part of this Act enabling the Minister to make regulations, the Minister may make regulations—

Regulations
for the
purposes of
Part III.

(a) for carrying the provisions of this Part of this Act into effect; and

(b) for prescribing anything which under this Part of this Act is to be prescribed; and

(c) for requiring rating authorities to transfer without payment to the valuation officer any such documents or classes of documents as may be specified in the regulations; and

PART III.
—cont.

- (d) for winding up the affairs of assessment committees, county valuation committees, and the central valuation committee and for disposing of their property ; and
- (e) for prescribing the manner in which any liabilities of assessment committees, county valuation committees or the central valuation committee are to be met, and requiring local authorities to contribute such sums as may be necessary for the meeting thereof,

and different provision may be made by the regulations for different cases or classes of case.

Commence-
ment of
Part III and
transitional
provisions.

72.—(1) This Part of this Act shall come into effect on such day as the Minister may by order appoint, and different days may be appointed for different purposes, different rating areas and different provisions of this Part of this Act.

(2) Subject to the provisions of subsection (1) of this section, the provisions of this Part of this Act relating to the alteration of current valuation lists shall have effect in relation to lists in force under the Rating and Valuation Acts, 1925 to 1940, or, as the case may be, under the Rating and Valuation (Metropolis) Acts, 1869 to 1940, as they have effect in relation to lists prepared in accordance with the provisions of this Act, and regulations made by the Minister may include such transitional provisions as the Minister thinks fit as respects proceedings for the amendment of lists or the making of provisional or supplemental lists pending on the day appointed as aforesaid.

32 & 33 Vict.
c. 67.

(3) Section forty-six of the Valuation (Metropolis) Act, 1869 (which relates to the revision of valuation lists in London) shall, until the repeal thereof by this Act comes into force, have effect in relation to the period for which the valuation lists in force at the date of the passing of this Act continue in force, as if the references to the first four years, the fifth year, and the last four years, of the period were respectively references to every year except the last year, the last year, and every year except the first year, of the period.

Extent of
Part III.

73. This Part of this Act shall not extend to Scotland.

PART IV.

VALUATION OF DWELLING-HOUSES.

Gross values ; Preliminary.

Scope of
provisions of
Part IV as to
gross values.

74.—(1) For the purpose of making or altering the first valuation lists made after the passing of this Act and subsequent lists, the gross value for rating purposes of a dwelling-house, instead of being ascertained by reference to the definitions of gross value in section sixty-eight of the Rating and Valuation Act, 1925, and section four of the Valuation (Metropolis) Act, 1869, shall be ascertained in accordance with the following provisions of this Part of this Act.

PART IV.
—cont.

(2) For the purposes of this Part of this Act, the expression "dwelling-house" means a hereditament used wholly or mainly for the purposes of a private dwelling or private dwellings, with or without any garage, outhouse, garden, yard, court, forecourt or other appurtenances.

(3) Nothing in this section, or in the other provisions of this Part of this Act relating to the ascertainment of gross values, shall apply to any dwelling-house to which section fifty-nine of the Pluralities Act, 1838 (which relates to certain dwelling-houses the letting of which is restricted) applies, and references in this section and in the said other provisions of this Part of this Act to dwelling-houses do not include references to any such dwelling-house. 1 & 2 Vict.
c. 106.

Ascertainment of gross values by reference to 1938 cost.

75.—(1) Subject to the provisions of this section, the gross values of the following dwelling-houses, that is to say— Scope of principle that gross value is to be ascertained by 1938 cost.

- (a) post-1918 local authority or housing association dwelling-houses, including flats and maisonettes; and
- (b) to the extent hereinafter specified, small post-1918 dwelling-houses, not being local authority or housing association dwelling-houses and not being flats or maisonettes,

shall be ascertained in the manner provided by the subsequent provisions of this Part of this Act by reference to the hypothetical 1938 cost of construction, and the hypothetical 1938 site cost, as defined in the two next succeeding sections, of those dwelling-houses or the buildings of which they form part:

Provided that the preceding provisions of this subsection shall not apply to any dwelling-house to which section seventy-two of the Local Government Act, 1929 (which relates to agricultural dwelling-houses) applies, and references to dwelling-houses in the subsequent provisions of this Part of this Act relating to the ascertainment of gross values by reference to the matters mentioned in this subsection or either of them do not include references to any dwelling-house to which the said section seventy-two applies.

(2) Any reference in this Part of this Act to a local authority or housing association dwelling-house shall be construed as a reference to—

- (a) a dwelling-house erected by, or by arrangement with, a local authority or by a housing association as defined for the purposes of the Housing Act, 1936, and owned by a local authority or such a housing association as aforesaid; or 26 Geo. 5. and
1 Edw. 8. c. 51.

PART IV.

—cont.

7 & 8 Geo. 6.
c. 36.

- (b) a structure made available under section one of the Housing (Temporary Accommodation) Act, 1944, for use by a local authority for the provision of temporary housing accommodation ; or
- (c) any other structure of a temporary nature used as a dwelling-house by virtue of any tenancy under or licence from a local authority.

(3) Any reference in this Part of this Act to a flat or maisonette shall be construed as a reference to a dwelling-house which forms part of a larger building :

Provided that—

- (a) in considering for the purpose of this section whether or not a dwelling-house forms part of a larger building, garages, outhouses, gardens, yards, courts, forecourts and other appurtenances shall be left out of account ; and
- (b) a semi-detached house or a house in a row of houses forming a terrace shall not be treated for the purpose of this section as forming part of a larger building.

(4) Any reference in this Part of this Act to a post-1918 dwelling-house shall be construed as a reference to a dwelling-house consisting of, or of part of, a building which was erected after, or in course of erection on, the second day of April, nineteen hundred and nineteen, or which has been since that date, or was at that date being, bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements.

(5) Any reference in this Part of this Act to a small dwelling-house shall be construed as a reference to a dwelling-house of which the rateable value on the appropriate day did not exceed—

- (a) in the case of a dwelling-house in the Metropolitan Police District or the City of London, one hundred pounds ; and
- (b) in the case of any other dwelling-house, seventy-five pounds.

(6) In the last preceding subsection, the expression “ rateable value on the appropriate day ” has the meaning assigned to it by section seven of the Rent and Mortgage Interest Restrictions Act, 1939, and that section shall apply accordingly for the purposes of this subsection :

Provided that—

- (i) where the rateable value on the appropriate day of a dwelling-house falls under subsection (2) of that section to be determined by an apportionment and no apportionment has been made by the county court, the valuation officer or, on appeal, any court or arbitrator

2 & 3 Geo. 6.
c. 71.

concerned, shall himself or themselves make the necessary apportionment for the purposes of this subsection ;

PART IV.
—cont.

- (ii) if the dwelling-house has not been separately assessed and does not form part of some other property which has been separately assessed, the valuation officer, court or arbitrator shall treat the dwelling-house as being, or as not being, a small dwelling-house according as the net annual value thereof, calculated as if it were a small dwelling-house, does or does not exceed, in the case of a dwelling-house in the Metropolitan Police District or the City of London, one hundred pounds and, in any other case, seventy-five pounds.

76.—(1) References in this Part of this Act to the hypothetical 1938 cost of construction of a dwelling-house or building shall be construed in accordance with the provisions of this section. Meaning of "hypothetical 1938 cost of construction".

(2) The Minister shall prepare, for each rating area, after consultation with the rating authority for the area, a statement which—

- (a) embodies specifications, set out in such detail as he thinks fit, of houses and buildings of such types as he thinks fit ; and
- (b) determines, in relation to each specification, the sum which is to be taken for the purposes of this section as the 1938 cost of constructing a house or building conforming to that specification.

(3) In compiling the said statements, the Minister shall be guided by the costs actually incurred by local authorities in either or both of the years nineteen hundred and thirty-seven and nineteen hundred and thirty-eight in constructing houses and buildings either in the rating area in question or in nearby comparable rating areas, but nothing in this subsection shall be construed as requiring the Minister, in selecting the specifications, to confine himself to houses and buildings of types actually constructed by local authorities in those or any other areas in those years :

Provided that, if the Minister is satisfied in relation to any local authority that the costs actually incurred by that authority, compared with the costs incurred by other authorities in constructing houses and buildings affording comparable accommodation, were substantially greater than they would otherwise have been by reason of exceptional circumstances existing in the rating area in question, he may for the purposes of this subsection treat those costs as being diminished by so much thereof as appears to him to be due to those exceptional circumstances.

PART IV.
—cont.

(4) The valuation officer, or, on appeal, any court or arbitrator concerned, shall, for the purpose of arriving at the hypothetical 1938 cost of construction of a dwelling-house or building—

- (a) assume that the cost in the year nineteen hundred and thirty-eight of constructing houses or buildings conforming with the specifications included in the statement prepared by the Minister as aforesaid for the area in which the dwelling-house or building in question is situated was in each case that which is determined in relation thereto in the statement ; and
- (b) estimate on that assumption what would have been the cost in that year of constructing a dwelling-house or building similar to the particular dwelling-house or building with which the valuation officer, court or arbitrator is dealing,

and the sum so estimated shall be deemed to be the hypothetical 1938 cost of constructing the house or building.

(5) In making any such estimate as is required by paragraph (b) of the last preceding subsection, the valuation officer, court or arbitrator shall take into account the cost of constructing garages, outhouses and other like appurtenances, and of paving and fencing yards, courts, forecourts and other like appurtenances, but shall not take into account the cost of providing or making up roads, or the cost of bringing to the site of the house or building drainage, water, electricity or gas, or of providing shelter from hostile attack from the air.

(6) A copy of the statement prepared by the Minister under subsection (2) of this section for any rating area shall be deposited at the offices of the rating authority for that area and shall be open to inspection during ordinary business hours, and any person shall be entitled to obtain from the rating authority a copy thereof for his own use upon payment to the authority of such fee as may be prescribed by regulations of the Minister.

Meaning of
" hypothetical
1938 site
cost ".

77.—(1) References in this Part of this Act to the hypothetical 1938 site cost of a dwelling-house or building shall be construed in accordance with the provisions of this section.

(2) The Minister shall prepare, for each rating area, after consultation with the rating authority for the area, a statement—

- (a) specifying a particular site or particular sites in or near the area ; and
- (b) determining, in relation to that site or, as the case may be, each of those sites, the sum which is to be taken as the 1938 cost of providing that site, developed as respects roads, drainage, water, electricity and gas to the extent specified in the statement.

(3) In preparing the said statements, the Minister shall select sites actually used by local authorities, whether in the year nineteen hundred and thirty-eight or at some other time, for the purpose of erecting dwelling-houses or buildings thereon, and shall be guided as respects the sums which he determines in relation to them by the costs incurred by local authorities in the year nineteen hundred and thirty-eight, or any other comparable period, in providing the sites or other comparable sites.

(4) The valuation officer, or, on appeal, any court or arbitrator concerned, shall, for the purpose of arriving at the hypothetical 1938 site cost of a dwelling-house or building—

- (a) select, where necessary, that one of the sites specified in the statement prepared by the Minister as aforesaid for the area in which the dwelling-house or building is situate which appears most appropriate ; and
- (b) starting from the assumption that the cost in the year nineteen hundred and thirty-eight of providing the site, or the selected one of the sites, specified in the statement, developed as respects the matters aforesaid to the extent specified therein, would have been that which is determined in the statement, estimate what would have been the cost in that year of providing the site which, or part of which, is occupied by the particular dwelling-house or building with which the valuation officer, court or arbitrator is dealing, developed as respects the matters aforesaid to the extent to which it is in fact developed ; and
- (c) where part only of the site the cost of which is estimated under paragraph (b) of this subsection is occupied by the particular dwelling-house or building with which the valuation officer, court or arbitrator is dealing, estimate the part of that cost which should properly be ascribed to the actual site of the said dwelling-house or building,

and the sum estimated under paragraph (b) or, as the case may be, paragraph (c) of this subsection shall be deemed to be the hypothetical 1938 site cost of the house or building :

Provided that if the cost estimated under paragraph (b) of this subsection exceeds fifteen hundred pounds per acre, the excess over fifteen hundred pounds per acre shall be disregarded, and the estimate, if any, under paragraph (c) thereof shall be made accordingly.

(5) References in the last preceding subsection to the site or the part of the site which is occupied by the particular dwelling-house or building or to the actual site of the particular dwelling-house or building include references to land occupied by garages, outhouses, gardens, yards, courts, forecourts and other like appurtenances forming part of the hereditament.

PART IV.
—cont.

(6) A copy of the statement prepared by the Minister under subsection (2) of this section for any rating area shall be deposited at the offices of the rating authority for that area and shall be open to inspection during ordinary business hours, and any person shall be entitled to obtain from the rating authority a copy thereof for his own use upon payment to the authority of such fee as may be prescribed by regulations of the Minister.

Post-1918
local
authority or
housing
association
dwelling-
houses, other
than flats and
maisonnettes.

78.—(1) Subject to the provisions of this section, the gross value of a post-1918 local authority or housing association dwelling-house, not being a flat or maisonnette, shall be five per cent. of the hypothetical 1938 cost of construction of the dwelling-house plus five per cent. of the hypothetical 1938 site cost thereof.

(2) Where the state of repair or amenities of such a dwelling-house as aforesaid or the amenities of its surroundings are not as good as those of the majority of comparable dwelling-houses in the locality, being dwelling-houses to which this section applies, the gross value thereof shall be the amount ascertained under subsection (1) of this section diminished by such amount as may be just :

Provided that any factor affecting the amenities of the dwelling-house or its surroundings shall not be taken into account under this subsection in so far as it has already affected the hypothetical 1938 cost of construction of the dwelling-house or the hypothetical 1938 site cost thereof.

Post-1918
local
authority
or housing
association
flats or
maisonnettes.

79.—(1) Subject to the provisions of this section, the gross value of a post-1918 local authority or housing association dwelling-house, being a flat or maisonnette, shall be ascertained by reference to the sum of—

- (a) the hypothetical 1938 cost of construction of the building of which the flat or maisonnette forms part ; and
- (b) the hypothetical 1938 site cost of that building,

and shall be five per cent. of so much of that sum as appears, on a just apportionment, to be properly attributable to the flat or maisonnette.

(2) Where the amenities of the surroundings of the said building are not as good as in the case of the majority of the buildings in the locality which consist of or contain post-1918 local authority or housing association dwelling-houses (whether flats or maisonnettes or not) comparable to the flats or maisonnettes contained in the first-mentioned building, the sum referred to in subsection (1) of this section shall be reduced by such amount as may be just :

Provided that any factor affecting the amenities of the surroundings of the building shall not be taken into account under this subsection in so far as it has already affected the hypothetical 1938 cost of construction of the building or the hypothetical 1938 site cost thereof.

(3) Where the building has been destroyed in part, the hypothetical 1938 cost of the construction thereof shall be ascertained, and the apportionment referred to in subsection (1) of this section shall be made, as if the destroyed part was still in existence.

(4) Where the state of repair or amenities of the flat or maisonette itself are not as good as those of the majority of comparable post-1918 local authority or housing association dwelling-houses in the locality (whether flats or maisonettes or not), the gross value of the flat or maisonette shall be the amount ascertained under the previous provisions of this section diminished by such amount as may be just :

Provided that the said state of repair, and any other factor affecting the amenities, shall not be taken into account under this subsection in so far as it has already affected the hypothetical 1938 cost of construction of the building or the hypothetical 1938 site cost thereof, or has already been taken into account in making the apportionment referred to in subsection (1) of this section.

80.—(1) Subject to the provisions of this section, the gross value of any small post-1918 dwelling-house which is neither a local authority or housing association dwelling-house nor a flat or maisonette shall be five per cent. of the hypothetical 1938 cost of construction of the dwelling-house plus five per cent. of the value of the site on the first day of April, nineteen hundred and forty-nine, estimated on the basis—

Other small
post-1918
dwelling-
houses, except
flats and
maisonettes.

- (a) that all buildings have been removed therefrom ;
- (b) that there is no impediment (whether of a legal nature or not) to the use of the site for the construction thereon of a dwelling-house of the same general character and dimensions as the existing dwelling-house and with foundations occupying the whole, or, at the option of the builder, any part of, the ground occupied by the buildings of the existing dwelling-house ; and
- (c) that any permission required by any statutory provision for that use of the site will be forthcoming unconditionally, and in particular, in the case of a permission under the enactments relating to town and country planning, will be forthcoming without the imposition of any development charge.

(2) If the state of repair or amenities of the dwelling-house are not as good as those of the majority of comparable dwelling-houses in the locality, being dwelling-houses to which this section applies, the gross value of the dwelling-house shall be the amount ascertained under the preceding provisions of this section diminished by such amount as may be just.

PART IV.
—cont.
Adjustment
for
adaptation
for business
purposes.

81. Where any part of a dwelling-house, being a dwelling-house to which one of the three last preceding sections applies, has been specially constructed or adapted for use for the purposes of any trade, business or profession, the gross value thereof, as ascertained under the relevant preceding provisions of this Part of this Act, shall be increased by such amount, if any, as may be just, having regard to any extra annual value for the time being conferred on the dwelling-house by the said special construction or adaptation thereof :

Provided that, where the dwelling-house is a flat or maisonette, any special construction or adaptation thereof shall only be taken into account under this section if and in so far as it has not already affected the apportionment required to be made of the hypothetical 1938 cost of construction, and the hypothetical 1938 site cost, of the building of which the flat or maisonette forms part.

Other cases.

Gross value
of other
dwelling-
houses.

82.—(1) Subject to the provisions of this section, the gross value of any dwelling-house the gross value of which is not ascertainable under any of the preceding provisions of this Part of this Act shall be estimated by reference to the rents for comparable dwelling-houses in the locality, being dwelling-houses to which this section applies, which were being paid on the thirty-first day of August, nineteen hundred and thirty-nine, under lettings in force at that date, whenever made.

(2) For the purposes of this section account shall, subject to the provisions of subsection (5) of this section, only be taken of rents charged under lettings where the landlord undertakes to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the dwelling-house in a state to command the rent.

(3) Where, under any such letting—

(a) the landlord undertakes any further obligation ; or

(b) the tenant does not undertake to pay all the usual tenant's rates and taxes,

the rent payable on that letting shall be adjusted, before being taken into account under subsection (1) of this section, by deducting therefrom sums representing the cost to the landlord of any services provided by him to fulfil any such obligation (exclusive of profit) and the burden otherwise falling on him by reason of his undertaking any such obligation or by reason of the tenant not undertaking to pay all the usual tenant's rates and taxes :

Provided that the said cost and the said burden shall be estimated by reference to the levels of costs prevailing in the year nineteen hundred and thirty-eight.

(4) Where, under any such letting as is referred to in subsection (2) of this section, the rent charged is less than it might have been expected to be but for the fact that the letting is to a servant of the landlord, the rent payable on that letting shall, in addition to any adjustment under the last preceding subsection, be adjusted, before being taken into account under subsection (1) of this section, by making such addition thereto as may be reasonable.

(5) Where, under any letting, the landlord undertakes to bear the cost of insurance and the other expenses, if any, necessary to maintain the dwelling-house in a state to command the rent, other than expenses of repair, and also undertakes to bear the cost of some, but not all, of the repairs necessary to maintain the dwelling-house as aforesaid, the rent payable under that letting shall be adjusted by adding thereto a sum representing the estimated cost of the said repairs so far as not undertaken to be borne by the landlord, and the rent, as so adjusted and, if need be, as further adjusted under subsection (3) of this section or under the last preceding subsection, shall be taken into account for the purposes of this section as if it were rent charged under such a letting as is mentioned in subsection (2) of this section :

Provided that the said cost shall be estimated by reference to the levels of cost prevailing in the year nineteen hundred and thirty-eight.

(6) In estimating the gross value of any dwelling-house in accordance with the provisions of this section, all necessary allowances shall be made for differences between the dwelling-houses which are taken into consideration.

(7) If, owing to the lack of comparable dwelling-houses actually the subject of lettings at the end of August, nineteen hundred and thirty-nine, it is not possible to arrive at the gross value of a dwelling-house in accordance with the preceding provisions of this section, or if the dwelling-house is one to which section seventy-two of the Local Government Act, 1929 (which relates to agricultural dwelling-houses) applies, the gross value thereof shall be estimated as if this Part of this Act had not been passed, except that regard shall be had to the levels of values prevailing in the year nineteen hundred and thirty-eight instead of to the levels of values prevailing for the time being :

Provided that where the gross value falls to be ascertained by reference to a rent (whether actual or hypothetical) the amount of which is referable in part to services provided by the landlord, the amount falling to be deducted from that rent, in ascertaining the gross value, as being the amount referable to the provision of those services shall be estimated by reference to the actual, or, as the case may be, the hypothetical, cost to the landlord of providing those services, exclusive of profit.

PART IV.

—cont.

Deductions
from gross
value in
certain cases.*Deductions from gross value.*

83.—(1) Subject to the provisions of this section, subsections (1) to (3) of section two of the Rating and Valuation Act, 1928 (which provide increased scales of deduction in arriving at the rateable value of certain houses and buildings) shall apply in relation to the making and alteration of—

(a) the first valuation lists made after the passing of this Act ; and

(b) such subsequent valuation lists, if any, as may be prescribed by regulations of the Minister,

as they apply in relation to the valuation lists specified in those subsections.

(2) The Minister may by order provide that, in the case of hereditaments of such classes as may be specified in the order, being hereditaments consisting of houses or buildings without land other than gardens, the deduction or maximum deduction to be made from the gross annual value for the purpose of arriving at the net annual value shall, instead of being ascertained by reference to Part I of the Second Schedule to the Rating and Valuation Act, 1925, or by reference to the Third Schedule to the Valuation (Metropolis) Act, 1869, as the case may be, be such as may be specified in the order in relation to those classes respectively.

(3) An order under the last preceding subsection may be revoked or varied by a subsequent order of the Minister.

(4) Before any order is made under subsection (2) or subsection (3) of this section, a draft thereof shall be laid before each House of Parliament, and the order shall not be made until approved by resolution of each House.

*Extent of Part IV.*Extent of
Part IV.

84. This Part of this Act shall not extend to Scotland.

PART V.

RATING OF TRANSPORT AND ELECTRICITY AUTHORITIES.

*General.*Railway or
canal heredi-
taments and
electricity
hereditaments
not to be
rated.

85.—(1) Save as is otherwise provided in this Part of this Act, no premises which are or form part of either—

(a) a railway or canal hereditament (as defined for the purposes of this Part of this Act) ; or

(b) a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board,

shall be liable to be rated or be included in any valuation list or in any rate, and the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric

Board shall, in the year 1948-49 and all subsequent years, make such payments for the benefit of local authorities as are provided for by the subsequent provisions of this Part of this Act in lieu of the rates which would, apart from the provisions of this Part of this Act, be payable to rating authorities in respect of those hereditaments.

(2) Where any lands and heritages in Scotland are occupied by the British Transport Commission, the British Electricity Authority, the North of Scotland Hydro-Electric Board or an Area Electricity Board, and are owned by some other person, nothing in this Part of this Act shall relieve that person from his liability to pay rates in respect of his ownership of those lands and heritages, and the value for the purpose of such rates of those lands and heritages shall be ascertained and fixed by the assessor of the county or burgh within which they are situated and not by the Assessor of Public Undertakings (Scotland) and shall be entered in the valuation roll for that county or burgh.

For the purposes of this Act or of any apportionment among rating authorities or of any requisition to a rating authority, the rateable value of any such lands and heritages as aforesaid shall be taken to be such sum as bears to the rateable value entered in the valuation roll the same proportion as that part of the county or burgh rate as the case may be which is payable by owners only bears to the whole of that rate.

Railways and Canals ; rating provisions.

86.—(1) In this Part of this Act, except where the contrary is expressly provided, the expression “ railway or canal hereditament ” means a hereditament occupied for any of the purposes of the British Transport Commission specified in subsection (2) of this section :

Definition of
railway or
canal
hereditament.

Provided that no premises occupied as a dwelling-house, hotel or place of public refreshment, or so let out as to be capable of separate assessment, shall be deemed to be, or to form part of, a railway or canal hereditament.

(2) The purposes referred to in subsection (1) of this section (elsewhere in this Act referred to as “ non-rateable purposes ”) are—

- (a) all purposes of the parts of the undertaking of the Commission which are concerned with the carriage of goods or passengers by rail or inland waterway or the provision of facilities for traffic by inland waterway ; and
- (b) all purposes of any parts of their undertaking which are subsidiary or incidental to any such part as aforesaid, not being parts thereof concerned with road transport, sea transport or harbours or parts thereof subsidiary or

PART V.
—cont.

incidental to the parts thereof concerned with road transport, sea transport or harbours :

Provided that—

- (i) services performed by the Commission in connection with the collection and delivery of parcels, goods or merchandise conveyed or to be conveyed by rail or inland waterway shall be deemed for the purposes of this subsection to be performed in carrying on a part of the Commission's undertaking concerned with the carriage of goods by rail or inland waterway and not in carrying on a part of their undertaking concerned with road transport ; and
- (ii) where a hereditament is occupied mainly for non-rateable purposes as defined by the preceding provisions of this section, and partly for the purposes of the central direction and control of the affairs of the Commission, the last-mentioned purposes shall be deemed for the purposes of this Part of this Act to be non-rateable purposes.

10 & 11 Geo. 6.
c. 49. (3) In this section, the expression " harbour " has the same meaning as in the Transport Act, 1947, and the expression " road transport " includes transport by a light railway or tramway, if the light railway or tramway is laid wholly or mainly along a public highway and is used wholly or mainly for the carriage of passengers.

Railway or canal hereditaments partly used for other purposes.

87.—(1) Where a railway or canal hereditament is occupied partly for non-rateable purposes and partly for other purposes—

- (a) the hereditament shall not, by virtue of the preceding provisions of this Part of this Act, be exempt from liability to be rated and from inclusion in any valuation list or in any rate ; but
- (b) there shall be ascribed to the hereditament such net annual value as may be just having regard to the extent to which it is occupied for those other purposes ; and
- (c) the deductions, if any, to be made from the net annual value in arriving at the rateable value shall be calculated with regard only to those other purposes.

(2) Where by or under any enactment the amount of any water rate in England or Wales is to be determined by reference to the gross value or net annual value of any property as appearing in the valuation list for the time being in force, then, if the property in question is or forms part of a hereditament to which subsection (1) of this section applies, the value thereof for the purposes of that water rate shall not be determined by reference to the said gross value or the said net annual value but shall be determined in the event of any dispute by the county court for the county court district in which the property in question is situated.

(3) The power to make orders conferred by subsection (2) of section forty-nine of this Act (which enables the Lord Chancellor to combine county court districts or direct that one county court district shall be included in another county court district for the purposes of that section) shall include power to make orders in relation to the purposes of this subsection, and the said subsection (2) shall have effect accordingly.

PART V.
—cont.

88.—(1) The provisions of the Railways (Valuation for Rating) Act, 1930, specified in Part III of the Second Schedule to this Act and the enactments amending or applying that Act shall cease to have effect, and the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority shall cease to exist.

Repeal of certain provisions of Railways (Valuation for Rating) Act, 1930, etc. 20 & 21 Geo. 5 c. 24.

(2) Any documents or other property of the said Authorities shall be disposed of in such manner as the Minister may direct, and any liabilities of the said Authorities, and any sum payable by the Minister under any provision of this Act by way of compensation to any officer or servant of either of those Authorities, shall be defrayed out of such payments falling to be made under this Part of this Act for the benefit of local authorities in England and Wales as the Minister may direct :

Provided that—

- (a) as respects documents or other property of the Anglo-Scottish Railways Assessment Authority, the powers conferred by this subsection on the Minister shall be exercised only with the consent of the Secretary of State ; and
- (b) such part as the Minister and the Secretary of State, acting jointly, may direct of the liabilities of, and of any sums payable by way of compensation to any officer or servant of, the Anglo-Scottish Railways Assessment Authority shall be defrayed by the British Transport Commission (as successors to the railway companies referred to in subsection (8) of section twenty-two of the Railways (Valuation for Rating) Act, 1930).

89.—(1) The provisions of this Part of this Act, so far as they relate to railway or canal hereditaments, the repeals in the Railways (Valuation for Rating) Act, 1930, the repeal of the enactments amending or applying that Act, and the abolition of the authorities referred to in that Act, shall (subject to the provisions of the next succeeding subsection) come into operation on the first day of April, nineteen hundred and forty-eight.

Commencement of provisions as to railway or canal hereditaments and transitional provisions.

(2) The following provisions of this subsection shall have effect as from the passing of this Act, that is to say—

- (a) the railway valuation roll for the fourth quinquennial period under the Railways (Valuation for Rating) Act,

PART V.
—cont.

1930, and the London Passenger Transport valuation roll for the third quinquennial period under the said Act as applied by the London Passenger Transport (Valuation for Rating) Scheme, 1935, shall not be completed ; and

- (b) any part of such a roll for either of the periods aforesaid which has been completed shall be deemed never to have come into force ; and
- (c) any alteration made in any valuation list by way of substituting for values or other particulars appearing in that list values or other particulars entered in any such part of a roll as aforesaid shall be deemed never to have been made ; and
- (d) any valuation list altered as aforesaid, and any rate made, whether before or after the passing of this Act, in accordance with that list as so altered, shall be corrected accordingly ; and
- (e) where the preceding provisions of this subsection affect the amount of any rate levied in respect of any hereditament in accordance with any such list, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate,

and any reference in the subsequent provisions of this section to a valuation list shall be construed, in relation to a valuation list which is required by this subsection to be corrected, as a reference to the list as so corrected.

(3) Until other provision is made under Part III of this Act, either by the preparation of new valuation lists or by the alteration of existing lists, the hereditaments in England and Wales which, on the thirty-first day of March, nineteen hundred and forty-eight, are shown in the valuation lists as railway hereditaments within the meaning of the Railways (Valuation for Rating) Act, 1930, or as transport hereditaments within the meaning of that Act as applied by a scheme under section ninety-two of the London Passenger Transport Act, 1933, or as freight transport hereditaments used wholly or partly for railway transport purposes or canal transport purposes and occupied by the British Transport Commission or one of the bodies specified in the Third Schedule to the Transport Act, 1947, shall, unless—

- (a) they are shown in the said lists on that date as freight transport hereditaments used wholly for dock purposes ; or
- (b) they appear from the said lists on that date to be hereditaments used wholly for tramway or trolley-bus purposes

23 & 24 Geo. 5.
c. 14.

of that part of the British Transport Commission's undertaking which corresponds to the undertaking of the London Passenger Transport Board,

be deemed to be railway or canal hereditaments for the purposes of this Part of this Act :

Provided that this subsection shall have effect subject to the provisions of the next succeeding section.

(4) The hereditaments which, under subsection (3) of this section, are to be deemed to be railway or canal hereditaments shall be dealt with as follows in the lists, that is to say—

- (a) all those hereditaments, other than such thereof as are shown in the lists as freight transport hereditaments used partly for dock purposes or as appear from the lists to be used partly for tramway or trolley-bus purposes of that part of the British Transport Commission's undertaking which corresponds to the undertaking of the London Passenger Transport Board, shall be omitted from the lists ; and
- (b) the net annual values of those of the said hereditaments which are not so omitted shall be the net annual values shown in the lists on that date as attributable to dock purposes, or the said tramway or trolley-bus purposes, as the case may be,

and it shall be the duty of all assessment committees to cause to be made, on the said first day of April, or as soon as may be thereafter, all such alterations in the valuation lists as are necessary to give effect to the provisions of this subsection, including alterations of totals of values, and the said alterations, when made, shall have effect as from the said first day of April.

(5) Save as provided in the preceding provisions of this section, and without prejudice to the provisions of the next following subsection, no alteration shall be made in any valuation list—

- (a) so far as it relates to any hereditament in England or Wales which is by virtue of subsection (3) of this section to be deemed to be a railway or canal hereditament ; or
- (b) for the purpose of securing that any other hereditament in England or Wales is treated as or as part of a railway or canal hereditament,

until the provisions of Part III of this Act relating to the alteration of valuation lists by means of proposals made by or served on valuation officers have come into force.

(6) Save as provided in the preceding provisions of this section, no alteration shall be made in any valuation list in force at the date of the passing of this Act so far as that list relates to any hereditament in England or Wales which, on the thirty-first day of March, nineteen hundred and forty-eight, is shown in the valuation list as a railway hereditament within the meaning of

PART V.
—*cont.*

the Railways (Valuation for Rating) Act, 1930, or as a transport hereditament within the meaning of that Act as applied by a scheme under section ninety-two of the London Passenger Transport Act, 1933, or as a freight transport hereditament used wholly or partly for railway transport purposes or canal transport purposes and occupied by the British Transport Commission or one of the bodies mentioned in the Third Schedule to the Transport Act, 1947 :

Provided that nothing in this subsection shall—

- (a) affect any new list made under Part III of this Act; or
- (b) prevent an alteration in a list in force at the date of the passing of this Act being made under and in accordance with the provisions of the said Part III by means of a proposal made by or served on a valuation officer where the ground of the proposal is that the hereditament ought to be but is not, or ought not to be but is, treated as a railway or canal hereditament under this Part of this Act, or that the value thereof has been affected since the first day of April, nineteen hundred and forty-eight by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause ; or
- (c) prejudice the operation of the next succeeding section.

(7) Where an alteration is made in the valuation list under subsection (4) of this section, the rating authority shall, where necessary, make the corresponding amendment in any rate made in respect of a period beginning on or after the said first day of April, and the amendment shall have effect as from the beginning of the said period.

Hereditaments shown as railway hereditaments, &c., but not in fact occupied by British Transport Commission.

90.—(1) Where, on the thirty-first day of March, nineteen hundred and forty-eight, the whole or any part of a hereditament which is shown in any valuation list in force at the said date as a railway hereditament within the meaning of the Railways (Valuation for Rating) Act, 1930, or as a transport hereditament within the meaning of that Act as applied by a scheme under section ninety-two of the London Passenger Transport Act, 1933, is in the occupation of some person other than the British Transport Commission, such amendments may be made of the valuation list (by way of proposal under Part III of this Act, of proposal under the Rating and Valuation Act, 1925, or of provisional or supplemental list, according as may be appropriate) as are necessary to secure that that hereditament or, as the case may be, that part thereof, appears as a separate hereditament in the list, as if it had not been shown in the valuation list as being, or forming part of, a railway hereditament or a transport hereditament.

(2) For the purpose of the liability of any person (other than the British Transport Commission) to rates, an amendment

made under this section shall, in relation to any rate (including any rate for a period which has already elapsed when the amendment is made), have effect as from the beginning of the quinquennial period under the Railways (Valuation for Rating) Act, 1930 (or, as the case may be, under that Act as applied by the London Passenger Transport (Valuation for Rating) Scheme, 1935) current at the date of the passing of this Act or as from the date on which the hereditament ceased to be in the occupation of the British Transport Commission or, as the case may be, the relevant body specified in the Third Schedule to the Transport Act, 1947, whichever is the later date ; and the amount underpaid shall be paid and may be recovered as if it were arrears of the rate.

PART V.
—cont.

Electricity ; rating provisions.

91. So much of this Act as provides that premises which are or form part of a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board shall not be liable to be rated or to be included in any valuation list or in any rate shall not apply to premises used as a dwelling-house.

Dwelling-houses of electricity authorities and boards to remain rateable.

92.—(1) The provisions of this Part of this Act, so far as they relate to hereditaments occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board, shall come into operation on the first day of April, nineteen hundred and forty-eight.

Commencement of provisions as to electricity hereditaments and transitional provisions.

(2) If the vesting date for the purposes of the Electricity Act, 1947, is after the said first day of April, the like consequences shall ensue under this Part of this Act as respects hereditaments which, on the vesting date, are occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board and were, at any time on or after the said first day of April, occupied by a body to whom Part II of that Act applies as would have ensued if the occupation thereof by the said body had been occupation by the said Authority or Board.

10 & 11 Geo. 6.
c. 54.

(3) It shall be the duty of all assessment committees to cause to be made, on or as soon as may be after the said first day of April, or, if the said vesting date is subsequent to the said first day of April, on or as soon as may be after the said vesting date, all such alterations of the valuation lists as are necessary to secure that no hereditament in England or Wales occupied on the said vesting date by the British Electricity Authority or an Area Electricity Board, other than any hereditament appearing from the valuation list to be used as a dwelling-house, remains in the said lists, and any consequential alterations of totals of

PART V.
—cont.

values, and the said alterations, when made, shall have effect as from the said first day of April :

Provided that every assessment committee shall, for the purposes of this subsection, assume—

- (a) that all hereditaments shown in the valuation lists as in force on the said vesting date as occupied by a body to whom Part II of the Electricity Act, 1947, applies, other than a local authority or a composite company as defined in section seventeen of the said Act, were occupied on the said vesting date by the British Electricity Authority or an Area Electricity Board ; and
- (b) that of the hereditaments shown in the lists as in force on the said vesting date as occupied by any such body as aforesaid, being a local authority or such a composite company as aforesaid, such and such only as are specified in that behalf in notices in writing to be served on the committee by the British Electricity Authority or an Area Electricity Board are occupied on the said vesting date by the Authority or any such Board ; and
- (c) that no other hereditaments not shown in the lists as in force on the said vesting date as occupied by the said Authority or any such Board were on that date so occupied.

(4) The provisions of the last preceding subsection shall be without prejudice to the making or effect of any proposal made under the provisions of Part III of this Act relating to the alteration of valuation lists by means of proposals made by or served on valuation officers, but until the said provisions of the said Part III come into force it shall not, save as is provided in the last preceding subsection, be competent to make any alteration in the valuation lists in force in England and Wales at the date of the passing of this Act either on the ground that a hereditament contained therein ought to be omitted therefrom as being occupied by the British Electricity Authority or an Area Electricity Board, or on the ground that a hereditament which has been removed from the list under the last preceding subsection ought to be included in the list.

(5) Where an alteration is made in the valuation list under subsection (3) of this section, the rating authority shall, where necessary, make the corresponding amendment in any rate made in respect of a period beginning on or after the said first day of April, and the amendment shall have effect as from the beginning of the said period.

*Payments by British Transport Commission for benefit of local authorities.*PART V.
—cont.

93.—(1) The payments which are, under the preceding provisions of this Part of this Act, to be made year by year by the British Transport Commission for the benefit of local authorities shall be as follows, that is to say, the Commission—

Amount of
payments by
British
Transport
Commission.

- (a) shall in each year make a payment for the benefit of local authorities in England and Wales ; and
- (b) shall in each year make a payment for the benefit of local authorities in Scotland.

(2) The said payments for the benefit of local authorities in England and Wales shall—

- (a) in the case of the year 1948-49, be a payment of the standard amount, increased by six hundred and thirty thousand pounds ;
- (b) in the case of the years 1949-50 and 1950-51, be payments of the standard amount, adjusted in accordance with the provisions of the next succeeding section for changes in the average rates levied in England and Wales ;
- (c) in the case of subsequent years, be payments of the standard amount, adjusted, in accordance with the provisions of the two next succeeding sections, for such changes as aforesaid and for changes in the circumstances of the British Transport Commission.

(3) The said payments for the benefit of local authorities in Scotland shall—

- (a) in the case of the year 1948-49, be payments of the standard amount ;
- (b) in the case of the years 1949-50, 1950-51, 1951-52 and 1952-53, be payments of the standard amount, adjusted in accordance with the provisions of the next succeeding section for changes in the average rates levied in Scotland ;
- (c) in the case of subsequent years, be payments of the standard amount adjusted, in accordance with the provisions of the two next succeeding sections, for such changes as aforesaid and for changes in the circumstances of the British Transport Commission.

(4) In this section and the two next succeeding sections, the expression "the standard amount" means, in relation to a payment for the benefit of local authorities in England and Wales, the sum of one million eight hundred and ten thousand pounds, and, in relation to a payment for the benefit of local authorities in Scotland, such sum as is certified by the Secretary of State to be the estimated amount which would have been

PART V.
—cont.9 & 10 Geo. 6.
c. 61.Adjustments
of British
Transport
Commission's
payments
for changes
in the average
rates.

payable by way of rates in Scotland in respect of railway or canal lands and heritages for the year 1947-48 if the rateable value of such lands and heritages in that year had been based upon the cumulo yearly rent or value of railway undertakings specified in Part II of the First Schedule to the Railways (Valuation for Rating) Act, 1946.

94.—(1) The adjustment which, under the last preceding section, is to be made for changes in the average rates levied in England and Wales, or, as the case may be, in Scotland, shall be the adjustment which results from the application of the subsequent provisions of this section.

(2) The aggregate gross charge to rates for England and Wales or, as the case may be, for Scotland, for the year preceding the year for which the payment by the British Transport Commission in question has to be made, as ascertained and certified by the Minister or, as the case may be, the Secretary of State, shall be multiplied by two hundred and forty and divided by the rateable value for England and Wales or, as the case may be, for Scotland, for the said preceding year, as so ascertained and certified.

(3) The results of the calculation directed to be made by subsection (2) of this section shall then be reduced or increased to the nearest whole number, by ignoring any fraction which is less than one-half and treating any other fraction as equivalent to one.

(4) The adjustment referred to in subsection (1) of this section is the application to the standard amount of the fraction of which the numerator is the result of the calculation directed to be made by subsection (2) of this section, reduced or increased to the nearest whole number, and the denominator is—

(a) in the case of a payment for the benefit of local authorities in England and Wales, the number two hundred and fourteen (being the estimated result, to the nearest whole number, of multiplying the aggregate gross charge to rates for England and Wales for the year 1947-48 by two hundred and forty and dividing the result by the rateable value for England and Wales for that year) ;

(b) in the case of a payment for the benefit of local authorities in Scotland, by the number certified by the Secretary of State to be the estimated result, to the nearest whole number, of a similar calculation as respects Scotland.

Adjustments
for changes
in the circum-
stances of
British
Transport
Commission

95.—(1) The adjustment which, under the last but one preceding section, is to be made for changes in the circumstances of the British Transport Commission shall be such adjustment as may be prescribed by order of the Minister and the Secretary of State, acting jointly.

(2) Any order made under this section may be revoked or varied by a subsequent order made thereunder.

PART V.
—cont.

(3) Before any order is made under this section, a draft thereof shall be laid before each House of Parliament, and the order shall not be made until the draft has been approved by resolution of each House.

Payments by British Electricity Authority for benefit of local authorities.

96.—(1) The payments which are, under the preceding provisions of this Part of this Act, to be made year by year by the British Electricity Authority for the benefit of local authorities shall be as follows, that is to say, the Authority—

Amount of payments by British Electricity Authority.

- (a) shall in each year make a payment for the benefit of local authorities in England and Wales ; and
- (b) shall in each year make a payment for the benefit of local authorities in Scotland with areas outside the North of Scotland District.

(2) The said payments shall—

- (a) in the case of the year 1948–49, be payments of the standard amount ;
- (b) in the case of subsequent years, be payments of the standard amount adjusted, in accordance with the provisions of the two next succeeding sections, for changes in the average rates levied in England and Wales or, as the case may be, in Scotland outside the North of Scotland District, and for changes in the amount of electricity supplied.

(3) In this section and the two next succeeding sections, the expression “ the standard amount ” means, in relation to a payment for the benefit of local authorities in England and Wales, the sum of eleven million two hundred and fifty thousand pounds, and, in relation to a payment for the benefit of local authorities in Scotland, such sum as is certified by the Secretary of State by way of rates in Scotland outside the North of Scotland District for the year 1947–48 in respect of the lands and heritages belonging to the British Electricity Authority or an Area Electricity Board which are by virtue of this Act not liable to be rated.

97.—(1) The adjustment which, under the last preceding section, is to be made for changes in the average rates levied in England and Wales shall be the same adjustment as that which falls to be made for such changes under the preceding provisions of this Part of this Act in arriving at the payments to be made

Adjustments of British Electricity Authority's payments for changes in the average rates.

F*

PART V.
—cont.

by the British Transport Commission for the benefit of local authorities in England and Wales and the provisions of this Part of this Act relating to that adjustment shall, with the necessary adaptations, have effect accordingly, and in particular as if references therein to the British Transport Commission were references to the British Electricity Authority, and references to the standard amount were references to the standard amount as defined by the last preceding section.

(2) The adjustment which, under the last preceding section, is to be made for changes in the average rates levied in Scotland outside the North of Scotland District shall, subject to the provisions of this subsection, be the same adjustment as that which falls to be made for changes in the average rates levied in Scotland under the preceding provisions of this Part of this Act in arriving at the payments to be made by the British Transport Commission for the benefit of local authorities in Scotland, and the provisions of this Part of this Act relating to that adjustment shall, with the necessary adaptations, have effect accordingly :

Provided that—

- (a) references therein to the British Transport Commission shall be construed as references to the British Electricity Authority ;
- (b) references to the standard amount shall be construed as references to the standard amount as defined by the last preceding section ;
- (c) references to Scotland shall be construed as references to so much of Scotland as is not within the North of Scotland District ; and
- (d) for the number certified under paragraph (b) of subsection (4) of section ninety-four of this Act there shall be substituted such number as is certified by the Secretary of State to be the estimated result, to the nearest whole number, of multiplying the aggregate gross charge to rates for the year 1947-48 for so much of Scotland as is outside the North of Scotland District by two hundred and forty and then dividing it by the rateable value for that year for so much of Scotland as is outside the said District.

Adjustments
for changes
in amount of
electricity
supplied

98.—(1) The adjustment which, under the last but one preceding section, is to be made for changes in the amount of electricity supplied shall be the adjustment which results from the application of the subsequent provisions of this section.

(2) The Minister of Fuel and Power shall ascertain and certify the total number of units of electricity supplied to consumers in the calendar year nineteen hundred and forty-seven by authorised undertakers as defined in section thirteen of the Electricity Act, 1947, other than undertakers with areas in the North of Scotland District.

(3) The Minister of Fuel and Power shall then ascertain and certify the amount by which the total number of units of electricity supplied to consumers in the last calendar year ending before the beginning of the year for which the payment by the British Electricity Authority is to be made, either by that Authority or by an Area Electricity Board or by any authorised undertakers as defined in the said section thirteen other than undertakers with areas in the North of Scotland District, exceeds or falls short of the number ascertained under subsection (2) of this section.

(4) The adjustment referred to in subsection (1) of this section is the application to the standard amount (as adjusted under the last preceding section) of the fraction of which—

- (a) the numerator is the number ascertained and certified under subsection (2) of this section increased by one-fifth of the excess or, as the case may be, decreased by one-fifth of the deficiency, ascertained and certified under subsection (3) of this section ; and
- (b) the denominator is the number ascertained and certified under the said subsection (2).

(5) References in this section to units of electricity supplied to consumers shall be construed as references to—

- (a) all the units of electricity supplied otherwise than to the British Electricity Authority, an Area Electricity Board, the North of Scotland Hydro-Electric Board or any authorised undertakers as defined in section thirteen of the Electricity Act, 1947 ; plus
- (b) forty-five per cent. of the units of electricity (if any) supplied to the North of Scotland Hydro-Electric Board or to any authorised undertakers (as defined in the said section thirteen) with areas in the North of Scotland District ; minus
- (c) forty-five per cent. of the units of electricity (if any) received from the North of Scotland Hydro-Electric Board or from any authorised undertakers (as defined in the said section thirteen) with areas in the North of Scotland District.

Payments by North of Scotland Hydro-Electric Board for benefit of local authorities.

99.—(1) The payments which are under the preceding provisions of this Part of this Act to be made year by year by the North of Scotland Hydro-Electric Board (hereafter in this section referred to as "the Board") for the benefit of local authorities shall be payments for the benefit of local authorities with areas in the North of Scotland District and shall—

Amount of payments by Hydro-Electric Board.

- (a) in the case of the year 1948-49, be a payment of the standard amount ;

PART V.
—cont.

- (b) in the case of any subsequent year, be a payment of the standard amount adjusted in accordance with the provisions of the two next succeeding subsections for changes in the average rates in the North of Scotland District and for changes in the amount of electricity supplied.

In this and the two next succeeding subsections " the standard amount " means such sum as is certified by the Secretary of State to be the estimated amount payable by way of rates for the year 1947-48 in respect of lands and heritages which form part of the undertaking of the North of Scotland Hydro-Electric Board, or which are to be transferred to that Board by the Electricity Act, 1947, and which in either case are by virtue of this Act not liable to be rated.

(2) The adjustment which, under the last preceding subsection, is to be made for changes in the average rates levied in the North of Scotland District shall be the adjustment which results from the application of the following provisions :—

- (a) the aggregate gross charge to rates for the said District for the year preceding the year for which the payment by the Board in question has to be made, as ascertained and certified by the Secretary of State, shall be multiplied by two hundred and forty and then divided by the rateable value for the said District for the said preceding year as so ascertained and certified ;
- (b) the results of the calculation directed to be made by paragraph (a) of this subsection shall then be reduced or increased to the nearest whole number by ignoring any fraction which is less than one-half and treating any other fraction as equivalent to one ;
- (c) the adjustment to be made as aforesaid is the application to the standard amount of the fraction of which the numerator is the result of the calculation directed to be made by paragraph (a) of this subsection reduced or increased to the nearest whole number, and the denominator is such number as is certified by the Secretary of State to be the estimated result, to the nearest whole number, of multiplying the aggregate gross charge to rates for the year 1947-48 for the North of Scotland District by two hundred and forty and then dividing it by the rateable value for that year for that District.

(3) The adjustment which under subsection (1) of this section is to be made for changes in the amount of electricity supplied shall be the adjustment which results from the application of the following provisions :—

- (a) the Minister of Fuel and Power shall ascertain and certify the total number of units of electricity supplied to consumers in the calendar year nineteen hundred and

forty-seven by authorised undertakers (as defined in section thirteen of the Electricity Act, 1947) with areas in the North of Scotland District ;

- (b) the Minister of Fuel and Power shall then ascertain and certify the amount by which the total number of units of electricity supplied to consumers in the last calendar year ending before the beginning of the year for which the payment by the Board is to be made either by the Board or by any such authorised undertakers as aforesaid exceeds or falls short of the number ascertained under paragraph (a) of this subsection ;
- (c) the adjustment to be made as aforesaid is the application to the standard amount (as adjusted under the last preceding subsection) of the fraction of which—
 - (i) the numerator is the number ascertained and certified under paragraph (a) of this subsection increased by one-fifth of the excess or, as the case may be, decreased by one-fifth of the deficiency ascertained and certified under paragraph (b) of this subsection ; and
 - (ii) the denominator is the number ascertained and certified under the said paragraph (a).

(4) References in this section to units of electricity supplied to consumers shall be construed as references to—

- (a) all the units of electricity supplied otherwise than to the Board, the British Electricity Authority, an Area Electricity Board or to any authorised undertakers as defined in section thirteen of the Electricity Act, 1947 ; plus
- (b) forty-five per cent. of the units of electricity (if any) supplied to the British Electricity Authority or any Area Electricity Board or any authorised undertakers (as defined in the said section thirteen) with areas outside the North of Scotland District ; minus
- (c) forty-five per cent. of the units of electricity (if any) received from the British Electricity Authority or any Area Electricity Board or any authorised undertakers (as defined in the said section thirteen) with areas outside the North of Scotland District.

(5) The Secretary of State may at any time review the operation of the provisions of this section and may by order make such modifications thereof as appear to him to be proper, and any order made under this subsection may be revoked or varied by a subsequent order made thereunder :

Provided that before any order is made under this subsection a draft thereof shall be laid before each House of Parliament and the order shall not be made until the draft has been approved by resolution of each House.

PART V.
—cont.

Provision as to making and division of payments for benefit of local authorities.

General provision as to payments for benefit of local authorities.

100.—(1) The sums falling to be paid under the preceding provisions of this Part of this Act for the benefit of local authorities in England and Wales shall be paid to the Minister, and the sums falling to be paid under the said provisions for the benefit of local authorities in Scotland shall be paid to the Secretary of State.

(2) The sums so paid to the Minister for any year shall, subject to the provisions of this Part of this Act relating to liabilities of the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, be distributed by him, at such times as he may determine, in the manner following, that is to say—

- (a) the sums shall first be allocated among the rating authorities in England and Wales in proportion to the rateable values for their respective areas for that year ;
- (b) in the case of the council of a county borough, the amount so allocated to that council shall be paid to that council ;
- (c) in the case of any other rating authority, the amount so allocated to that authority shall be paid as to one-third thereof to that authority and as to two-thirds thereof to the council of the county of which the area of that authority forms part.

(3) The sums so paid to the Secretary of State for any year shall be distributed by him according to their respective rateable valuations among the rating authorities—

- (a) throughout Scotland ;
- (b) in that part of Scotland which is not included in the North of Scotland District ; and
- (c) in the said District,

according as the said sums represent sums paid to the Secretary of State by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board.

Application of payments under Part V to councils in Scotland.

101. All sums received under this Part of this Act by the county council of a county in Scotland shall be applied in meeting the expenditure on all purposes for which the council exercise functions throughout the landward area only, and all sums so received by the town council of a burgh in Scotland shall be applied proportionately towards meeting the expenditure which, but for the said sums, would be defrayed out of those portions of the burgh rate as are respectively payable—

- (a) by occupiers and owners in equal proportions ;
- (b) wholly by owners ; and
- (c) wholly by occupiers.

102.—(1) Any payments made under this Part of this Act by the British Transport Commission, the British Electricity Authority or the North of Scotland Hydro-Electric Board shall, if and so far as it is so prescribed, be taken into account for any purposes of this or any other Act as if they were paid on account of rates, and in computing the product of a penny rate, but, save as aforesaid, shall not be deemed to be payments on account of rates.

PART V.
—*cont.*
Treatment of
payments for
benefit of local
authorities.

(2) Where, under any statutory provision other than this Act, any amount falls to be calculated by reference to the rateable value for any area, the Minister or, as respects Scotland, the Secretary of State, may by regulations provide that, for the purposes of that statutory provision, the rateable value for the area of any local authority who receive any payment from the sums paid for the benefit of local authorities under this part of this Act shall be deemed to be increased by an amount calculated, by reference to the payments so made to that authority, in such manner as may be prescribed by the regulations.

103. Section forty-one of the Electricity Act, 1947 (which enables the British Electricity Authority to require Area Electricity Boards to contribute towards the satisfaction of certain obligations of the Authority) shall have effect in relation to the obligation imposed by this Part of this Act on that Authority to make payments for the benefit of local authorities, and accordingly in subsection (1) of that section the word " or " where it occurs at the end of paragraph (c) shall be omitted and after paragraph (d) there shall be inserted the words—

Power of
British
Electricity
Authority
to require
contributions
from Area
Electricity
Boards.

" or

(e) the making of payments under Part V of the Local Government Act, 1948, for the benefit of local authorities "

Miscellaneous.

104.—(1) The sums to be paid by the British Transport Commission and the bodies mentioned in Part I of the Third Schedule to the Transport Act, 1947, to the Railway Freight Rebates Fund under paragraph 2 of Part I of the Eleventh Schedule to the Local Government Act, 1929, shall, in the case of the year ending with the thirtieth day of September, nineteen hundred and forty-eight, be four million four hundred and twenty-five thousand pounds, and, in the case of each subsequent year, be three million four hundred and seventy-five thousand pounds, and references to the estimated rate relief and the actual rate relief in any year shall, in relation to those years, be construed accordingly.

Stabilisation
of payments
by British
Transport
Commission
to Railway
Freight
Rebates Fund.

(2) If, in the first of the said years, the amounts paid before the passing of this Act under the said paragraph 2 exceed or fall short of the amounts which would have been paid if this section

PART V.
—cont.

had been in force at the beginning of that year, a sum equal to the difference shall on the passing of this Act be paid by way of adjustment out of the Fund to the British Transport Commission or by the British Transport Commission to the Fund, as the case may require.

(3) Save as provided in the preceding provisions of this section, no further payments shall be made after the passing of this Act under the said paragraph 2 either in respect of the aforesaid years or in respect of any earlier year.

(4) Nothing in this section affects the power conferred on the Minister of Transport by section eighty-seven of the Transport Act, 1947, as respects the termination of the system of rebates provided for by the Railway Freight Rebates Enactments, 1929 to 1943, and as respects the winding up of the Railway Freight Rebates Fund.

Temporary grants by county councils to county district councils, parish councils, etc., in certain cases, 10 Geo. 4. c. 44.

105.—(1) The council of each county in England and Wales shall estimate in relation to each county district within the county the amount in the pound of the rate required to be levied in the district for the year 1947-48 in order to meet the expenditure of the council of that district for that year, being expenditure falling to be met out of rates levied in the district but not including expenditure incurred in meeting a precept (other than a precept from a joint authority of which the council of the district is a member) or in meeting a warrant issued under section twenty-three of the Metropolitan Police Act, 1829.

(2) The council of the county shall then estimate the amount in the pound of the rate which would have been required to be levied in the district for the said year for the said purposes in the following circumstances, that is to say, if—

- (a) the product of a rate of one penny in the pound for that district for that year had been diminished by a sum ascertained as follows, that is to say, by dividing by two hundred and forty an amount equal to so much of the difference between the rateable value of the hereditaments in the district on the thirty-first day of March, nineteen hundred and forty-eight, and the rateable value for the district for the year 1948-49 as is due to the coming into effect of the provisions of this Part of this Act relating to railway or canal hereditaments and hereditaments occupied by the British Electricity Authority or an Area Electricity Board; and
- (b) the expenditure of the council of the district had been diminished by an amount equal to any sum paid to the council of the district for the benefit of that council for the year 1948-49 under the preceding provisions of this Part of this Act.

(3) If in the case of any county district the amount estimated under subsection (2) of this section exceeds the amount estimated under subsection (1) thereof by more than twopence, the council of the county shall make to the council of that district grants for the year 1948-49 and the nine following years calculated in accordance with the provisions of this section.

(4) The amount of the grants to be made by the council of the county shall be as follows, that is to say—

(a) for the year 1948-49, the grant shall be a sum equal to the product of a rate of one penny in the pound for the district, as estimated for the purposes of subsection (2) of this section, multiplied by the number of pence in the amount by which the amount of the excess mentioned in subsection (3) of this section exceeds twopence ;

(b) for the nine following years, the grants shall be respectively nine-tenths, four-fifths, seven-tenths, three-fifths, one-half, two-fifths, three-tenths, one-fifth and one-tenth of the grant for the year 1948-49.

(5) Any dispute as to whether any, and if so what, grant is to be made under this section to the council of a county district shall be determined by the Minister.

(6) The preceding provisions of this section shall apply in relation to—

(a) any rural parish in England or Wales having a separate parish council ; and

(b) any group of rural parishes in England or Wales under a common parish council ; and

(c) any rural parish in England or Wales without a separate parish council, not being a parish forming part of such a group or a parish coterminous with a rural district,

as it applies in relation to a county district, subject, however, to any necessary modifications, and in particular, in the case of such a parish as is mentioned in paragraph (c) of this subsection, to the modification that references to the council of the district shall be construed as references to the parish meeting or the representative body of the parish, as the context may require.

(7) Any payment under this section may, if the councils concerned so agree, be effected in whole or in part by making the appropriate deduction from the amount due under a precept.

(8) This section shall apply to the council of a county in Scotland in like manner as it applies to the council of a county in England and Wales subject to the following modifications :—

(a) for any reference to a county district there shall be substituted a reference to a small burgh and to the landward area of a county and any reference to the

PART V
—cont.

- council of such a district shall in relation to the landward area be construed as a reference to the county council ;
- (b) the estimates required to be made under subsections (1) and (2) of this section shall in the case of a burgh or of the counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, be made after consultation with the council of the burgh or of the separate county ;
 - (c) for any reference to expenditure incurred in meeting a precept there shall be substituted a reference to expenditure on purposes for which small burghs are included in a county ; for any reference to an amount due under a precept there shall be substituted a reference to a sum payable under a requisition issued under section two hundred and fourteen of the Local Government (Scotland) Act, 1947 ; and for the word "twopence" there shall be substituted the words "one and three-fifths pence" ;
 - (d) any reference to the making of grants to a council shall be construed in the case of the landward area of a county as a reference to the setting aside of a sum for behoof of the landward area ;
 - (e) any reference to the landward area of a county shall be construed in the case of the aforesaid combined counties as a reference to the landward area of each of the separate counties, and the sums required to be set aside for behoof of the landward area of those separate counties shall be paid by the councils of the combined counties to the councils of the separate counties ;
 - (f) the expenditure incurred by the council of a county in making grants under this section shall be deemed to be expenditure on functions for which small burghs are included in the county ;
 - (g) any reference to an Area Electricity Board shall be construed as including a reference to the North of Scotland Hydro-Electric Board ;
 - (h) for any reference to the Minister there shall be substituted a reference to the Secretary of State.

Duties of
rating
authorities.

106. Every rating authority in England and Wales shall give effect to any directions which may from time to time be given to them by the assessment committee in pursuance of any provisions of this Part of this Act requiring assessment committees to cause alterations to be made in valuation lists, and shall give to the assessment committee such information and other assistance in carrying out their duties under this part of this Act as the committee may reasonably require.

PART V.
—cont.

107. The Fourth Schedule to the Hydro-Electric Development (Scotland) Act, 1943, as amended by the Electricity Act, 1947, shall have effect as if in sub-paragraph (ii) of paragraph 1 for any reference to a sum paid as rates there were substituted a reference to a sum calculated in such manner as the Secretary of State and the Minister of Fuel and Power acting jointly may determine having regard to the payments made by the British Electricity Authority for the benefit of local authorities under this Part of this Act.

Amendment of Hydro-Electric Development (Scotland) Act, 1943. Sch 4. 6 & 7 Geo. 6. c. 32.

108.—(1) The Secretary of State may by order—

Assessor of Public Undertakings (Scotland).

(a) from time to time provide for the transfer to such other persons as may be specified in the order of the functions of the Assessor of Public Undertakings (Scotland) remaining after the coming into operation of this Part of this Act ; and

(b) provide for the discontinuance of the office of the said Assessor.

(2) The Secretary of State may by regulations make provision with regard to all or any of the following matters—

(a) the payment of compensation to the said Assessor or any clerk or other officer employed by him in respect of any pecuniary loss incurred by the Assessor, clerk or officer by reason of the determination of his office or the diminution of his emoluments in consequence of this Act or of anything done thereunder ;

(b) the superannuation benefits of any such person as aforesaid who becomes a civil servant or a pensionable officer or servant of a local authority and—

(i) the reckoning for the purposes of the Superannuation Acts, 1834 to 1946 or of the Local Government Superannuation (Scotland) Act, 1937, of the service of such person as Assessor or as such clerk or officer in like manner as if it were civil service or service rendered to the local authority as the case may be ; or

(ii) the application, subject to such modifications as may be prescribed in the regulations, to any such person who becomes a civil servant of any enactment relating to the superannuation of persons transferring from local government service to civil service, and to any such person who becomes an officer or servant of a local authority of the aforesaid Act of 1937, in like manner in either case as if his service as Assessor or as such clerk or officer were service rendered to a local authority ;

1 Edw. 8. and 1 Geo. 6. c. 69.

PART V
—cont.

(c) the payment by the Secretary of State of any compensation or superannuation benefit or transfer value payable under the regulations and the recovery of the sums so paid by such contributions (whether by way of lump sum or periodical payments) from the British Transport Commission, the British Electricity Authority, the North of Scotland Hydro-Electric Board and the bodies included in the valuation roll made up by the said Assessor for the year 1948-49 as may be specified in the regulations.

(3) The last foregoing subsection shall, as regards any case where the said Assessor or any clerk or officer employed by him becomes a pensionable officer or servant of a local authority in England, have effect as if for any reference to the Secretary of State there were substituted a reference to the Secretary of State and the Minister, acting jointly, and for any reference to the Local Government Superannuation (Scotland) Act, 1937, there were substituted a reference to the Local Government Superannuation Act, 1937.

(4) In this section, the expression "local authority" has the like meaning as in the Local Government Superannuation (Scotland) Act, 1937, or the Local Government Superannuation Act, 1937, as the case may be.

Power to make
orders varying
Part V.

109.—(1) Without prejudice to any other power to make orders conferred by this Part of this Act, the Minister, the Secretary of State, or the Minister and the Secretary of State acting jointly, according as England and Wales only, Scotland only or both England and Wales and Scotland are concerned, may by order do all or any of the following things, that is to say—

- (a) direct that the provisions of this Act relating to railway or canal hereditaments shall apply also to other hereditaments occupied wholly or mainly for purposes of the British Transport Commission, or shall not apply to hereditaments to which they would apply but for the provisions of the order ;
- (b) make such consequential amendments in the provisions of this Part of this Act; and in the provisions of Part III of this Act, as may be consequential on the giving of any such direction as is mentioned in paragraph (a) of this subsection ; and
- (c) make such amendments, whether consequential or not, in any of the figures set out in any of the preceding provisions of this Part of this Act, as may be specified in the order.

(2) Any order under this section may be revoked or varied by a subsequent order made thereunder.

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

PART V.
—cont.

110. Without prejudice to any other power to make regulations conferred by this Part of this Act, the Minister and, as respects Scotland, the Secretary of State, may make regulations for carrying this Part of this Act into effect and in particular—

Power to make regulations for the purposes of Part V.

- (a) for determining the manner in which, subject to the express provisions of this Part of this Act, any calculation or estimate is to be made for any of the purposes of this Part of this Act ;
- (b) for determining the times at which payments under this Part of this Act for the benefit of local authorities are to be made ;
- (c) for providing that the calculations or estimates by reference to which any such payments are made may be treated as either conclusive or provisional or conclusive for some purposes and provisional for other purposes and, so far as they are to be treated as provisional, for the making of further calculations or estimates based on information not previously available and for adjusting in the light thereof any payments already made ;
- (d) for modifying the operation of this Part of this Act in relation to any local authority (including a parish council or representative body of a parish not having a separate council) if and in so far as any such modification is required in relation to that authority in consequence of any alterations or combinations of authorities or alterations of boundaries ;
- (e) for prescribing anything which is to be prescribed.

PART VI.

ALLOWANCES TO MEMBERS OF LOCAL AUTHORITIES AND OTHER BODIES.

- 111.—(1) This Part of this Act shall apply to the following bodies, that is to say,—
- (a) the councils of counties, county boroughs, metropolitan boroughs, county districts and rural parishes ;
 - (b) any divisional executive established under the Education Acts, 1944 and 1946 (hereafter in this Part of this Act referred to as a "divisional executive for education") ;
 - (c) any body established in pursuance of regulations made under subsection (4) of section twenty-two of the

Bodies to which Part VI applies and members thereof.

PART VI.
—cont.

National Health Service Act, 1946 (hereafter in this Part of this Act referred to as a "divisional executive for health services");

- (d) catchment boards;
- (e) assessment committees;
- (f) local valuation panels;
- (g) any joint committee, joint board, joint authority or other combined body all the members of which are representatives of local authorities; and
- (h) any such other body as may be prescribed, being a body established in pursuance of any statutory provision upon which any such body as is mentioned in any of the preceding paragraphs of this subsection is represented.

(2) For the purposes of this Part of this Act, save as otherwise expressly provided, a member of a committee or sub-committee of a body to which this Part of this Act applies shall be deemed to be a member of that body.

(3) Nothing in this Part of this Act shall apply to the Common Council of the City of London and a member of that council shall not be entitled to receive any payment under this Part of this Act, either as a member of that council or as a member of any other body to which this Part of this Act applies on which he represents that council.

Financial
loss
allowance.

112.—(1) A member of a body to which this Part of this Act applies shall be entitled to receive a payment by way of financial loss allowance where—

- (a) loss of earnings which he would otherwise have made; or
- (b) additional expense (other than expense on account of travelling or subsistence) to which he would not otherwise have been subject,

is necessarily suffered or incurred by him for the purpose of enabling him to perform any approved duty as a member of that body:

Provided that any payment made under this subsection in respect of any one period of twenty-four hours shall not exceed—

- (i) where the period of time over which earnings are lost or additional expenses are incurred is not more than four hours, the sum of ten shillings; or
- (ii) where the said period of time is more than four hours, the sum of twenty shillings.

(2) A member of a parish council shall not be entitled to any payment under this section in respect of any approved duty as a member of that council performed within the area of the parish.

113.—(1) A member of a body to which this Part of this Act applies shall be entitled to receive payments, at rates which shall be determined by the body but which shall not exceed those prescribed, by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any approved duty as a member of that body :

PART VI.
—cont.
Travelling
allowance and
subsistence
allowance.

Provided that—

- (a) a member of the council of a borough (including a metropolitan borough), of an urban district or of a rural parish shall not be entitled to any payments under this section in respect of the performance of any approved duty within the area of that council ;
- (b) a member of any other body to which this Part of this Act applies who is a member thereof as the representative of any such council as is mentioned in the foregoing proviso shall not be entitled to any payment under this section in respect of the performance of any approved duty within the area of that council ;
- (c) without prejudice to the foregoing provisos, a member of a body shall not be entitled to any payment under this section in respect of the performance of any approved duty within the area of that body except in respect of duties performed at a distance of more than three miles from his usual place of residence ;
- (d) the rates of payments under this section to members of a divisional executive for education or of a divisional executive for health services shall, instead of being determined by the executive, be determined by the local education authority within the meaning of the Education Acts, 1944 and 1946, or, as the case may be, by the local health authority within the meaning of the National Health Service Act, 1946.

(2) Section two hundred and ninety-four of the Local Government Act, 1933, the Local Government (Members' Travelling Expenses) Act, 1937, section seventy-three of the London County Council (General Powers) Act, 1939, section one hundred and sixty-three of the London Government Act, 1939, and section eleven of the Education Act, 1946, shall not have effect in respect of expenses incurred after the passing of this Act.

1 Edw. 8. and
1 Geo. 6. c. 36.
2 & 3 Geo. 6.
c. c.
2 & 3 Geo. 6.
c. 40.

(3) In section two hundred and sixty-seven of the Local Government Act, 1933, (which authorises a local authority, other than a parish council, to defray in certain cases the reasonable expenses incurred by their members or officers in attending a conference or meeting), the words " other than a parish council " shall be repealed.

PART VI.
—cont.

Bodies by whom payments by way of allowances are to be made.

114.—(1) Any amounts by way of allowances payable under this Part of this Act—

- (a) in respect of an approved duty performed by any person as a member of a divisional executive for education shall be payable by the local education authority within the meaning of the Education Acts, 1944 and 1946 ;
- (b) in respect of an approved duty performed by any person as a member of a divisional executive for health services shall be payable by the local health authority within the meaning of the National Health Service Act, 1946 ;
- (c) in any other case, shall be payable by the body as a member of which the person claiming payment performed the approved duty in respect of which the right to payment under this Part of this Act arises.

(2) Where, by or under any statutory provision other than this Part of this Act, a body to which this Part of this Act applies has power to defray the expenses incurred by the members of the body on account of travelling for the purposes of the performance of approved duties as members of the body, or otherwise to relieve the members of the body from the burden of meeting those expenses, that statutory provision shall cease to have effect in relation to the members of the body, but subject as aforesaid nothing in this Part of this Act shall affect any such statutory provision :

Provided that where a local education authority in England and Wales or an education authority in Scotland incur expenditure under this Part of this Act in paying or contributing towards the expenses of a member thereof on account of travelling for the purpose of attending a conference, being a conference in respect of which the authority is authorised to incur expenditure by or under section eighty-three of the Education Act, 1944, or, as the case may be, section twenty-eight of the Education (Scotland) Act, 1946, the first-mentioned expenditure shall, for the purpose of determining the amount of any sum payable to the authority out of moneys provided by Parliament, or out of the Education (Scotland) Fund, be deemed to have been incurred under the Education Acts, 1944 and 1946, or, as the case may be, the Education (Scotland) Act, 1946.

(3) Where a body to which this Part of this Act applies has power, otherwise than under this Part of this Act, to defray expenses (other than expenses on account of travelling) incurred by any person in respect of which that person is entitled to a payment by way of allowance under this Part of this Act, that power shall not be so exercised as to defray those expenses otherwise than in accordance with the provisions of this Part of

this Act, but subject as aforesaid nothing in this Part of this Act shall affect any other power of the body to defray expenses.

PART VI.
—cont.

(4) Subject to the provisions of subsection (2) of this section, any expenditure under this Part of this Act by a body to which this Part of this Act applies shall not be taken into account for the purpose of determining the amounts of any sums payable to that body out of moneys provided by Parliament otherwise than by way of an Exchequer Equalisation Grant within the meaning of Part I or Part II of this Act :

Provided that nothing in this subsection shall be construed as affecting the duty of the Minister to pay the expenses of local valuation panels.

(5) Any expenditure under this Part of this Act by the council of a rural parish shall be left out of account for the purposes of subsection (3) of section one hundred and ninety-three of the Local Government Act, 1933 (which limits the sums which may be required to be raised in any financial year to meet the expenses of a parish council, other than expenses under the adoptive acts), and, accordingly, in the said subsection (3), after the words "other than expenses under the adoptive acts" there shall be inserted the words "or under Part VI of the Local Government Act, 1948".

(6) In the application of this section to Scotland, any reference in subsection (2) to a statutory provision shall be construed as including a reference to a rule of the common law.

115. In this Part of this Act, the expression "approved duty", in relation to a member of a body, means any of the following duties, that is to say,—

Meaning of
"approved
duty."

- (a) attendance at a meeting of the body, or of any committee or sub-committee thereof ;
- (b) the doing of any other thing approved by the body for the purpose of, or in connection with, the discharge of the functions of the body, or of any committee or sub-committee thereof ;
- (c) attendance as a representative of the body at a conference or meeting convened by one or more bodies to which this Part of this Act applies or by any association of such bodies, where the body has power, under any statutory provision other than this Act, to defray the expenses incurred in such attendance ; or
- (d) where, in pursuance of a duty imposed on or a power granted to the body by any statutory provision or Royal Charter, he has been appointed by or on the nomination of the body to be a member of any such other body as may be prescribed, not being a body to which this Part

PART VI.
—cont.

of this Act applies, the doing of anything as a member of that other body for the purpose of the discharge of the functions of that other body :

Provided that paragraph (d) of this section shall not apply where—

- (i) the person who is the subject of the appointment is a member of a committee or sub-committee of the body to which this Part of this Act applies by or on whose nomination he was appointed ; and
- (ii) it is by reason only of his being a member of such a committee or sub-committee that he is deemed for the purposes of this Part of this Act to be a member of that body.

Allowance to
chairman of
district council
for expenses of
office.

116. A district council in England and Wales may pay to the chairman of the council for the purpose of enabling him to meet the expenses of his office such allowance as the council may think reasonable.

Regulations
for the
purposes of
Part VI.

117.—(1) The Minister may make regulations as to the manner in which the provisions of this Part of this Act are to be administered, and in particular, and without prejudice to the generality of the preceding provision, may make regulations—

- (a) providing for the avoidance of duplication in payments under this Part of this Act, or between payments under this Part of this Act and under any other Act, where, in any one period of twenty-four hours, a person performs approved duties as a member of more than one body to which this Part of this Act applies, or, as the case may be, becomes entitled to payments both under this Part of this Act and under any other Act, and for the determination of the body or bodies by whom any payments to which that person is entitled are to be made, and, where such payments are to be made by more than one body, for the apportionment between those bodies of the sums payable ;
- (b) prescribing anything which under this Part of this Act is to be prescribed ;
- (c) specifying the forms to be used and the particulars to be provided for the purpose of claiming payments under this Part of this Act ;
- (d) providing for the publication by a body to which this Part of this Act applies, in the minutes of that body or otherwise, of details of payments made under this Part of this Act.

(2) The power to make regulations conferred by this section shall be exercisable by statutory instrument, and any statutory instrument under this section shall be laid before Parliament after it is made.

118.—(1) This Part of this Act shall apply to Scotland subject to the modifications contained in the following subsections of this section.

PART VI.

—cont.

Application of
preceding
provisions to
Scotland.

(2) For any reference to the Minister of Health there shall be substituted a reference to the Secretary of State.

(3) For subsection (1) of section one hundred and eleven of this Act there shall be substituted the following subsection—

“(1) This Part of this Act shall apply to the following bodies, that is to say,—

- (a) county, town and district councils ;
- (b) any probation committee ;
- (c) any joint committee, joint board, joint authority or other combined body all the members of which are representatives of such councils as aforesaid ;
- (d) any such other body as may be prescribed, being a body established in pursuance of any statutory provision upon which any such body as is mentioned in any of the preceding paragraphs of this subsection is represented ;
- (e) the governing body administering an educational endowment under any scheme approved or deemed to have been approved under Part VI of the Education (Scotland) Act, 1946.”

(4) Section one hundred and eleven of this Act shall have effect as if there were added at the end of subsection (2) the following words—

“and any body of persons constituted by an education authority to advise or assist them in the performance of their functions shall, whether or not they are members of the authority, be deemed to be a sub-committee of the education committee of the authority.”

(5) Section one hundred and thirteen of this Act shall have effect as if for the proviso to subsection (1) there were substituted the following proviso—

“Provided that—

(i) the following persons—

- (a) a member of the town council of a burgh ; or
- (b) a member of any such council who as the representative of that council is serving as a member of any joint committee, joint board, joint authority or other body to which this Part of this Act applies,

shall not be entitled to payment under this section in respect of the performance of any approved duty within the area of that council either as a member thereof or as a member of that committee, board, authority or body ; and

PART VI.
—cont.

(ii) without prejudice to the foregoing paragraph a member of a body shall not be entitled to any payment under this section in respect of the performance of any approved duty as a member of that body within the area thereof except in respect of duties performed at a distance of more than three miles from his usual place of residence."

(6) Section one hundred and fourteen of this Act shall have effect as if for subsection (1) there were substituted the following subsection—

"(1) Any amounts by way of allowances payable under section one hundred and twelve or section one hundred and thirteen of this Act—

(a) in respect of an approved duty performed by any person as a member of the education committee of a council or of any sub-committee thereof shall be deemed to be expenditure of the council for the purpose of their functions relating to education ;

(b) in any other case shall be payable by the body as a member of which the person claiming the payment performed the approved duty in respect of which the right to payment under this Part of this Act arises, and any amount so payable by a county council to a person in respect of any approved duty performed by him in relation to any purpose for which a burgh is included within the county shall be apportioned and allocated in accordance with section two hundred and fourteen of the Local Government (Scotland) Act, 1947."

(7) Expenditure under this Part of this Act by a district council shall not be taken into account in calculating the limit imposed on the district rate by section two hundred and twenty-six of the Local Government (Scotland) Act, 1947.

(8) Section three hundred and thirty-eight of the Local Government (Scotland) Act, 1947, and any provision of a scheme approved or deemed to have been approved under Part VI of the Education (Scotland) Act, 1946, authorising a governing body to pay allowances in respect of travelling or other personal expenses incurred by members of the body and by members of committees thereof, shall not have effect in respect of expenses incurred after the passing of this Act.

Expenses incurred by members of councils in Scotland in attending conferences, etc.

119.—(1) There may, subject to such limitation with respect to numbers as may be prescribed by the Secretary of State, be paid—

(a) allowances in respect of expenses reasonably incurred by members of a county, town or district council in Scotland or any committee thereof (including any committee to which section fifty-two of the Local

Government (Scotland) Act, 1947 applies) or of any sub-committee thereof in respect of attendance at a conference or meeting held for the purpose of discussing any matter connected with the discharge of the functions of the council or of the committee or sub-committee, and convened by one or more such councils or by any other body or association for the time being recognised by the Secretary of State for the purposes of this section ; and

- (b) any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting :

Provided that—

- (i) no such allowance in respect of any matter referred to in section one hundred and twelve or in section one hundred and thirteen of this Act shall exceed the rate prescribed therefor by that section ; and
- (ii) nothing in this section shall affect the provisions of any other enactment authorising the payment of expenses incurred by members of a county, town or district council or of any committee or sub-committee thereof in attending any conference or meeting or authorise any such council to defray any expenses to which such enactment applies, except in accordance with the provisions of that enactment.

(2) A county council may pay to the convener of the county and a town council may pay to the provost of the burgh for the purpose of enabling the convener or provost, as the case may be, to meet the special expenses of his office such allowance as the council may think reasonable.

(3) A district council in Scotland may make annual or other contributions towards the expenses of any association of such councils approved by the Secretary of State and consisting of representatives of a majority of such councils and formed for the purpose of considering matters connected with their statutory functions and other matters relating to local government in Scotland, not being matters connected with statutory functions exercisable only by other local authorities :

Provided that such contributions shall not exceed such limits as may from time to time be prescribed by the Secretary of State after consultation with the said association.

(4) Any expenditure incurred under subsection (1) of this section in relation to a conference or meeting 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 conference or meeting is held, and any expenditure incurred under subsection (2) of this section shall be defrayed as general expenses of the council.

PART VII.

MISCELLANEOUS.

Provisions as
to precepts.

120.—(1) Subsections (2) to (4) of section nine of the Rating and Valuation Act, 1925 (which relate to precepts by county councils) shall, with the modifications specified in subsection (2) of this section, extend to London.

(2) The said modifications are as follows, that is to say—

- (a) in subsection (2), for the words “nineteen hundred and twenty-nine”, there shall be substituted the words “nineteen hundred and forty-eight”; and
- (b) in sub-paragraph (i) of paragraph (b) of subsection (2), for the references to the general rate there shall, in relation to the City of London, be substituted references to the poor rate; and
- (c) sub-paragraph (ii) of the said paragraph (b) (which contains transitional provisions inapplicable in the case of London) shall be deemed to be omitted; and
- (d) the reference in subsection (3) of that section to the commencement of that Act shall be construed as a reference to the date of the passing of this Act; and
- (e) the reference in paragraph (a) of subsection (4) to section eleven of that Act shall be construed as a reference to sections three and four of the Poor Rate Assessment and Collection Act, 1869.

(3) It is hereby declared that it is not necessary for a county council, before issuing a precept to a rating authority under section one hundred and eighty-three of the Local Government Act, 1933, or section one hundred and seventeen of the London Government Act, 1939, to make any county rate, and the County Rates Act, 1852, is hereby repealed.

15 & 16 Vict.
c. 81.

(4) Nothing in this section shall affect the manner in which sums required for the purposes of the Metropolitan Police are raised.

Provisions as
to precepts for
expenses of
Metropolitan
Police.

121.—(1) No warrant under section twenty-three of the Metropolitan Police Act, 1829, shall be issued by the Commissioner of Police in respect of any period beginning on or after the first day of April, nineteen hundred and forty-eight, but, for the purpose of providing money for meeting such expenses as may be authorised by or under any enactment or by the Secretary of State to be paid out of the Metropolitan Police Fund, being expenses for which provision is not otherwise made, the Receiver for the Metropolitan Police District, may with the consent of the

Secretary of State, issue precepts to rating authorities in accordance with the subsequent provisions of this section.

PART VII.
—cont.

(2) Except in relation to the expenses mentioned in the next succeeding subsection, precepts issued under this section shall be issued to all rating authorities with areas falling wholly or partly within the Metropolitan Police District, but where the area of a rating authority is only partly within that District, the precepts shall be so issued as to secure that the rate is levied only on that part of the area which is within that District.

(3) In relation to expenses of and incidental to the metropolitan police courts and the probation system within the metropolitan police court area respectively, precepts issued under this section shall be issued to all rating authorities with areas falling wholly or partly within the metropolitan police court area :

Provided that where only part of the area of a rating authority is within the metropolitan police court area, the precepts shall, except in any case where the Minister, on the application of the rating authority, by order directs that this proviso shall not apply, be so issued as to secure that the rate is levied only on that part.

(4) Subsections (2), (4) and (5) of section nine of the Rating and Valuation Act, 1925 (which relate to precepts by county councils), shall, both within and outside London, apply in relation to any such precept, but with the following modifications, that is to say—

- (a) for any reference to councils of counties there shall be substituted a reference to the Receiver ; and
- (b) in subsection (2), for the words “ twenty-nine ” there shall be substituted the words “ forty-eight ” ; and
- (c) sub-paragraph (ii) of paragraph (b) of the said subsection (2) shall be deemed to be omitted ; and
- (d) the reference in paragraph (a) of subsection (4) to section eleven of that Act shall, in relation to rating authorities with areas in London, be construed as a reference to sections three and four of the Poor Rate Assessment and Collection Act, 1869.

(5) Notwithstanding anything in the preceding provisions of this section, one precept may be issued in respect of all the expenses mentioned in subsection (1) of this section, including as separate items contributions to each of the classes of expenses mentioned in subsections (2) and (3) of this section, and the preceding provisions of this section and the provisions of section nine of the Rating and Valuation Act, 1925, shall, with the necessary adaptations, have effect accordingly.

PART VII.
—cont.

(6) The receipts of and incidental to the metropolitan police courts and the probation system within the metropolitan police court area respectively shall enure for the benefit of the rating authorities mentioned in subsection (3) of this section to the exclusion of those not so mentioned, and the precepts to be issued under this section shall be issued accordingly.

(7) Where the receipts of and incidental to the metropolitan police courts or the probation system within the metropolitan police court area respectively exceed the expenses of those courts or, as the case may be, of that system, effect may, notwithstanding subsection (2) of section nine of the Rating and Valuation Act, 1925, be given to the provisions of the last preceding subsection by means of the issue of a precept under this section requiring a rate to be levied in the areas mentioned in the said subsection (3) or in a part of such an area of a lower amount in the pound than in the areas not so mentioned, or as the case may be, than in the other parts of that area.

(8) In respect of the year 1948-49, this section shall have effect as if in subsection (2) thereof the words "Except in relation to the expenses mentioned in the next succeeding subsection", subsection (3) thereof and the three last preceding subsections were omitted.

(9) In this section the expression "metropolitan police court area" means the area consisting of the police court divisions for the time being constituted under the Metropolitan Police Courts Acts, 1839 and 1840.

Amendment
of Rating and
Valuation Act,
1925, s. 11.

122. Section eleven of the Rating and Valuation Act, 1925, (which relates to the rating of and the collection of rates by owners) shall have effect and shall be deemed always to have had effect as if it provided that the allowance to be made to owners under subsection (1) thereof shall be at the rate of ten per cent. of the amount payable, or such greater percentage not exceeding fifteen per cent. of that amount as the rating authority may by resolution of general application determine; and subsection (1) of section three of the Rating and Valuation Act, 1928, (which provides temporarily for such an increase in the said allowance) shall cease to have effect.

Explanation
of "rating
area" in
relation to
London.

123. It is hereby declared that any reference in any Act to a rating area is, in the case of any part of London outside the City of London, the Inner Temple and the Middle Temple, a reference to the whole of the metropolitan borough and not a reference to the parish, and subsection (2) of section seven of the Rating and Valuation (Apportionment) Act, 1928, shall be construed accordingly.

124.—(1) It shall be the duty of the Assessor of Public Undertakings (Scotland) (hereinafter referred to as " the Assessor ") to ascertain and fix the value of all lands and heritages belonging to or leased by—

PART VII. —cont. Subjects to be valued by Assessor of Public Undertakings (Scotland).

(a) the British Transport Commission, other than lands and heritages—

(i) which by virtue of Part V of this Act, are not liable to be rated ; or

(ii) which are occupied as a dwelling-house, hotel or place of public refreshment ; or

(iii) which are so let out as to be capable of separate assessment ; and

(b) any company, corporation or local authority and forming part of a tramway undertaking.

(2) The Assessor shall, on or before such date in each year as may be prescribed by the Secretary of State, inquire into and fix in cumulo the gross annual, net annual and rateable values of—

(a) the lands and heritages of which the Assessor is required by the last foregoing subsection to ascertain and fix the value ; and

(b) the lands and heritages of any company, corporation, trustees or local authority, with the valuation of which the Assessor is charged in pursuance of section twenty-three of the Lands Valuation (Scotland) Act, 1854,

17 & 18 Vict. c. 91.

and shall fix the proportions of such cumulo values to be assigned to each county, burgh or district in which the lands and heritages or any part thereof are situated.

(3) The Assessor shall make up each year a valuation roll in which he shall enter therein in accordance with the Lands Valuation (Scotland) Act, 1854, the values fixed by him under the last foregoing subsection, and any reference in any enactment to the valuation roll made up by the Assessor under the last-mentioned Act shall be construed as a reference to the valuation roll to be made up under this section, and the provisions of the said Act shall apply accordingly.

125.—(1) The Minister may, by regulations, provide that stock issued, whether before or after the passing of this Act, by any authority to which this section applies, other than—

Transfer of stock issued by certain authorities.

(a) stock which by virtue of any statutory provision contained in or made under a private or local Act and passed or made after the passing of the Government and other Stocks (Emergency Provisions) Act, 1939, and before the making of the regulations, is transferable by deed and in no other manner ; and

2 & 3 Geo. 6. c. 100.

PART VII.
—cont.

(b) stock in respect of which a stock certificate to bearer is for the time being outstanding, or any other bearer security,
shall be transferable in law by instrument in writing and in no other manner.

(2) Regulations made under this section may contain any incidental, supplementary or transitional provisions, and in particular—

- (a) provisions as to the keeping of the registers relating to the holders of the stock and as to the matters to be entered therein, and provisions enabling those registers to be closed for such periods and in such circumstances as may be prescribed by the regulations ;
- (b) provision for striking the balance for a dividend on the stock ;
- (c) provisions as to the issue of documents of title relating to the stock and as to evidence of title thereto, and as to the manner in which a transfer of stock is to be completed ;
- (d) provisions varying, revoking or repealing any statutory provision passed or made before the making of the regulations and inconsistent therewith, being a statutory provision which is contained in or made under a local or private Act or made under section thirty of the Local Loans Act, 1875 (which enables a local authority to make rules as to securities issued by them under that Act) or section two hundred and four of the Local Government Act, 1933 (which relates to stock issued under that Act) ; and
- (e) provision enabling the Minister by order to exempt from the operation of all or any of the provisions of the regulations such stock as may be specified in the order.

(3) Regulations made under this section varying or revoking any regulations made under the said section two hundred and four may, so far as they relate to stock to which that section applies, be varied or revoked by further regulations made under that section.

(4) The power to make regulations under this section shall be exercisable by statutory instrument, and a draft of any such instrument shall be laid before Parliament.

(5) This section applies to any authority who—

- (a) are, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate ; or
- (b) are a body which, under any enactment relating to harbours, are entitled to levy tolls or dues, being a body who are neither statutory undertakers carrying on business for profit nor a company within the meaning of the Companies Act, 1929.

38 & 39 Vict.
c. 83.

19 & 20 Geo. 5.
c. 23.

(6) For the purposes of this section, the expression "stock" includes debenture stock and annuity certificates.

PART VII.
—cont.

(7) In the application of this section to Scotland—

- (a) for any reference to the Minister there shall be substituted a reference to the Secretary of State ; and
- (b) for any reference to section two hundred and four of the Local Government Act, 1933, there shall be substituted a reference to section two hundred and seventy-one of the Local Government (Scotland) Act, 1947.

126.—(1) Without prejudice to any power conferred, or duty imposed, upon the council of a county by any other Act, if in the case of any county district in England or Wales it appears to the council of the county in which that district lies that it is reasonable so to do, having regard to the resources of the district and to the other circumstances of the case, the council of the county may, with the consent of the Minister given either generally or specially, agree to contribute a sum equal to the whole or any part of any expenses incurred by the council of that district.

Contributions
by county
councils to
expenses of
county district
councils.

(2) For the purposes of the preceding subsection, contributions by the council of a county district towards the expenses of a joint board shall be deemed to be expenses incurred by the contributing council.

(3) Where an amount equal to the expenses towards which any contribution is made under this section falls to be debited to the Housing Revenue Account of the council of the county district, the council of the county district shall carry to the credit of the account, in addition to the amounts which they are required to carry to the credit of that account under section one hundred and twenty-nine of the Housing Act, 1936, amounts equal to the contribution payable under this section, and any contribution in respect of those expenses by the council of the district required by paragraph (e) of subsection (1) of the said section one hundred and twenty-nine to be carried to the credit of that account shall be correspondingly reduced.

(4) After the coming into operation of this section,—

- (a) no undertaking shall be given under subsection (2) of section eight of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (which relates to the power of county councils to make contributions in respect of houses provided by county district councils) ; and
- (b) any undertaking given under the said subsection (2) or under subsection (4) of section one hundred and fifteen of the Housing Act, 1936 (which relates to the power of county councils to make contributions in respect of

PART VII.
—cont.

houses provided by rural district councils) shall be treated in respect of any period falling after the passing of this Act as if it were an agreement made with the consent of the Minister in pursuance of the power conferred by this section.

Transfer to
county
councils of
property and
liabilities
relating to
county roads.

127. Where by virtue of Part III of the Local Government Act, 1929 (which relates to the vesting, repair and maintenance of county roads) and whether before or after the passing of this Act—

- (a) any road within the area of a borough or urban district council has, since the appointed day for the purposes of the said Part of the said Act, become a county road and the council have not, within the time specified in the said Act, claimed to exercise the functions of maintenance and repair with respect to that road; or
- (b) a borough or urban district council, having or being deemed to have claimed as aforesaid with respect to a county road in their area, have since the said appointed day relinquished the aforesaid functions with respect thereto,

the borough or urban district council and the county council may agree for the transfer to the county council of such property and liabilities of the borough or urban district council relating to the road upon such terms and conditions as may be specified in the agreement.

Provisions as
to finance com-
mittees.

128. In subsection (2) of section eighty-six of the Local Government Act, 1933 (which provides, subject as there stated, that no costs, debt or liability exceeding fifty pounds shall be incurred by a county council except upon a resolution of the council passed on an estimate submitted by the finance committee), and in subsection (3) of section sixty of the London Government Act, 1939 (which makes similar provision in relation to county and borough councils in London) for the word "fifty" there shall be substituted the words "one hundred".

Subscriptions
to local
government
associations.

129. The council of a county, county borough, metropolitan borough, county district or rural parish may pay reasonable subscriptions, whether annually or otherwise, to the funds—

- (a) of any association of local authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government, or
- (b) of such associations of officers of local authorities, being associations formed for the purposes aforesaid, as may be approved by the Minister.

130.—(1) A local authority may enter into a contract with any person whereby, in consideration of payments by the authority by way of premium or otherwise, that person undertakes to pay to the authority such sums as may be provided in the contract in the event of any member of the authority meeting with a personal accident, whether fatal or not, while he is engaged on the business of the authority.

PART VII.
—cont.
Insurance by local authorities against accidents to members.

(2) Any sum received by the authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the member of the authority in respect of an accident to whom that sum is received.

(3) The provisions of the Life Assurance Act, 1774, shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Assurance Companies Acts, 1909 to 1946, to be a policy of insurance upon the happening of personal accidents. 14 Geo. 3. c. 48.

(4) In the application of this section to Scotland, the expression "local authority" means a county, town or district council.

131.—(1) The following amendments shall be made in section seventy-six of the Local Government Act, 1933 (which relates to the disability of members of local authorities who have a pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, for voting on any question with respect thereto).

Disability of members of local authorities for voting on account of interest in contracts, &c.

(2) After subsection (2) of the said section seventy-six there shall be inserted the following subsection—

"(2A) Where a member of a local authority has indirectly a pecuniary interest in a contract or other matter and would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed two hundred pounds or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, so much of subsection (1) of this section as prohibits him from taking part in the consideration or discussion of, and from voting on any question with respect to, the contract or other matter shall not apply to him, without prejudice, however, to the duty of disclosure imposed by the said subsection (1) :

Provided that where the share capital of the company or other body is of more than one class, this subsection shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one hundredth part of the total issued share capital of that class of the company or other body".

PART VII.
—cont.

(3) In the proviso to subsection (2) of section seventy-six the words " or stock " shall be omitted, and at the end of the said section there shall be inserted the following subsection—

" (10) In this section, the expression ' shares ' includes stock and the expression ' share capital ' shall be construed accordingly."

(4) In the said section seventy-six and in section one hundred and twenty-three of the said Act of 1933 (which relates to the disclosure by officers of local authorities of interest in contracts), references to a local authority shall be construed as including references to a divisional executive constituted under the Education Acts, 1944 and 1946, or the National Health Service Act, 1946, and, for the purposes of the said section one hundred and twenty-three, an officer of a local authority who carries out any duties under the control of such an executive shall be deemed, in relation to those duties, to be an officer of that executive.

(5) The preceding provisions of this section shall apply in relation to London as if for references to section seventy-six of the Local Government Act, 1933, there were substituted references to section fifty-two of the London Government Act, 1939.

(6) The provisions of subsections (1) to (3) of this section shall apply to Scotland with the substitution for references to section seventy-six of the Local Government Act, 1933, of references to section seventy-three of the Local Government (Scotland) Act, 1947.

Provision of
entertain-
ments.

132.—(1) A local authority may do, or arrange for the doing of, or contribute towards the expenses of the doing of, anything necessary or expedient for any of the following purposes, that is to say—

- (a) the provision of an entertainment of any nature or of facilities for dancing ;
- (b) the provision of a theatre, concert hall, dance hall or other premises suitable for the giving of entertainments or the holding of dances ;
- (c) the maintenance of a band or orchestra ;
- (d) any purpose incidental to the matters aforesaid, including the provision, in connection with the giving of any entertainment or the holding of any dance, of refreshments or programmes and the advertising of any such entertainment or dance :

Provided that the powers conferred on a local authority by this subsection shall not be exercised in relation to any entertainment or dance held in any place outside the area of that authority,

or in relation to a theatre, concert hall, dance hall or other premises situate in any place outside that area, unless—

PART VII.
—cont.

- (i) that place is convenient for residents in the area of that authority ;
- (ii) the local authority for the area within which that place is situate consent.

(2) Without prejudice to the generality of the provisions of the preceding subsection, a local authority—

- (a) may for the purposes therein specified enclose or set apart any part of a park or pleasure ground belonging to the authority or under their control not exceeding one acre or one-tenth of the area of the park or pleasure ground whichever is the greater ;
- (b) may permit any theatre, concert hall, dance hall or other premises provided by them for the purposes of the preceding subsection and any part of a park or pleasure ground enclosed or set apart as aforesaid, to be used by any other person, on such terms as to payment or otherwise as the authority think fit, and may authorise that other person to make charges for admission thereto ;
- (c) may themselves make charges for admission to any entertainment or dance held by them and for any refreshment or programmes supplied at any such entertainment or dance :

Provided that nothing in this subsection shall authorise any authority to contravene any covenant or condition subject to which a gift or lease of a public park or pleasure ground has been accepted or made without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

(3) The expenditure of a local authority under this section (excluding capital expenditure, but including loan charges) shall not in any year exceed the product of a rate of sixpence in the pound, plus the net amount of any receipts of the authority from any such charges or payments as are referred to in the last preceding subsection :

Provided that where a local authority exercise any powers under any statutory provision other than this Act for the provision by them of entertainments or the holding by them of dances, any expenditure incurred by them under those powers (excluding capital expenditure but including loan charges) less the net amount of the receipts, if any, of the authority in respect of the exercise of those powers shall, for the purpose of determining whether any, and if so what, expenditure may be incurred in any year under this subsection, be taken into account as if it was expenditure under this section.

PART VII.
—cont.

(4) A local authority who propose to borrow money for any of the purposes authorised under this section shall, before applying to the Minister for his consent to the borrowing, publish in such local newspapers, and in such other ways, if any, as appear to them best suited for bringing the matter to the attention of persons concerned, notice of their proposal, specifying the amount which and the purposes for which they propose to borrow and the time (not being less than twenty-eight days from the publication of the notice) within which any objection to the proposal may be made to the Minister.

(5) Where any such objection as is mentioned in the last preceding subsection is made to the Minister within the time specified in the notice aforesaid and is not withdrawn, the Minister shall not, unless in his opinion the objection is frivolous, consent to the borrowing of any money for the purposes in question until he has caused a public local inquiry to be held into the proposal, and, in considering whether or not to give his consent to the borrowing of any money for those purposes, he shall consider the report of the person by whom the inquiry was held.

(6) Nothing in this section shall affect the provisions of any enactment by virtue of which a licence is required for the public performance of a stage play or the public exhibition of cinematograph films, or for boxing or wrestling entertainments or for public music or dancing, or for the sale of intoxicating liquor or tobacco.

(7) In this section, the expression "local authority" means the council of a county borough, metropolitan borough or county district or the common council of the City of London.

(8) The following enactments are hereby repealed, that is to say, paragraph (3) of section forty-four of the Burgh Police (Scotland) Act, 1903; paragraphs (d), (e) and (h) of subsection (1) of section seventy-six of the Public Health Acts Amendment Act, 1907; subsections (1) to (4) of section fifty-six and the proviso to subsection (1) of section seventy of the Public Health Act, 1925; the proviso to subsection (1) of section two hundred and twenty-six of the Public Health Act, 1936; the proviso to subsection (1) of section one hundred and seventy-two of the Public Health (London) Act, 1936; in subsection (5) of section ten of the Physical Training and Recreation Act, 1937, the words "Provided that," to the end of the subsection; and in subsection (5) of section seventy-four of the Local Government (Scotland) Act, 1947, the words from "so however," to the end of the subsection.

(9) Nothing in this section shall have effect so as to extend the powers of the council of a county or of a parish under section

seventy of the Public Health Act, 1925 (which relates to the use of the offices of an authority for entertainments) as applied to those councils by section four of the Physical Training and Recreation Act, 1937, and accordingly the following proviso shall be inserted at the end of subsection (2) of the said section four, that is to say—

PART VII.
—cont.

“ Provided that the following restrictions shall have effect with respect to any concert or other entertainment provided by the council of a county or of a parish by virtue of this section, that is to say—

- (i) no stage play shall be performed ; and
- (ii) the concert or other entertainment shall not include any performance in the nature of a variety entertainment ; and
- (iii) no cinematograph film other than a film illustrative of questions relating to health or disease shall be shown ; and
- (iv) no scenery, theatrical costumes or scenic or theatrical accessories shall be used.”

(10) In the application of this section to Scotland—

- (a) no money shall be borrowed for the purposes authorised under this section except with the consent of the Secretary of State ;
- (b) for any reference to the Minister there shall be substituted a reference to the Secretary of State ;
- (c) the expression “ local authority ” means a county, town or district council ;
- (d) for any reference to a rate of sixpence in the pound there shall be substituted a reference to a rate of four and four-fifths pence in the pound ;
- (e) expenditure incurred by a district council under this section shall not be taken into account in calculating the limit imposed on the district rate by section two hundred and twenty-six of the Local Government (Scotland) Act, 1947.

(11) No certificate shall be granted under the Licensing (Scotland) Acts, 1903 to 1934 for the sale of exciseable liquor in any premises provided under this section in Scotland, but nothing in this subsection shall render it unlawful to grant under section forty of the Licensing (Scotland) Act, 1903, a special permission for an entertainment in any such premises.

133.—(1) In section one of the War Memorials (Local Authorities' Powers) Act, 1923 (which enables local authorities, as defined in that Act, to incur reasonable expenditure in the maintenance, repair and protection of war memorials in their district which

War memorials.

13 & 14 Geo. 5
c. 18.

PART VII.
—cont.

are vested in them) for the words "which may be vested in them," there shall be substituted the words "whether vested in them or not."

(2) The matters on which expenditure may be incurred under the said section one shall include the alteration of any memorial to which that section applies so as to make it serve as a memorial in connection with any war subsequent to that in connection with which it was erected and the correction of any error or omission in the inscription on any such memorial.

(3) The War Memorials (Local Authorities' Powers) Act, 1923, as amended by the foregoing provisions of this section shall extend to Scotland subject to the following modifications—

(i) sections two and four shall not apply ; and

(ii) the expression "local authority" means a county, town or district council.

Information
centres.

134. A local authority may make, or assist in the making of, arrangements whereby the public may on application readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the authority provided either by the authority or by other authorities or by Government departments, and other information as to local government matters affecting the area.

Instruction,
lectures, etc.,
on questions
relating to
local
government.

135.—(1) Subject to such conditions and restrictions, if any, as the Minister may by regulations prescribe, a local authority may—

(a) arrange for the publication within their area of information on questions relating to local government ; and

(b) arrange for the delivery of lectures and addresses, and the holding of discussions, on such questions ; and

(c) arrange for the display of pictures, cinematograph films or models or the holding of exhibitions relating to such questions ; and

(d) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as aforesaid.

(2) In the application of this section to Scotland, for the reference to the Minister there shall be substituted a reference to the Secretary of State.

Assistance
by local
authorities to
other bodies.

136. A local authority in England or Wales may, with the consent of the Minister given either generally or specially, contribute towards the expenses of any body carrying on activities within the area of that authority, being activities for the purpose of furthering the development of trade, industry or commerce therein, or of giving advice, information or other assistance to persons resident therein, or otherwise for the benefit of that area or those persons.

137.—(1) In subsection one of section one of the Health Resorts and Watering Places Act, 1936, (which authorises the expenditure by the council of a borough or urban district on advertising the advantages and amenities of the borough or district as a health resort or watering place of a sum not exceeding the amount which would be produced by a rate of one penny and one-third of a penny in the pound), for the words "one penny and one-third of a penny" there shall be substituted the words "three pence".

PART VII.
—cont.

Amendment of
Health Resorts
and Watering
Places Act,
1936, s. 1.
26 Geo. 5. and
1 Edw. 8. c. 48.

(2) In the application of this section to Scotland, for the reference to subsection (1) of section one of the Health Resorts and Watering Places Act, 1936, there shall be substituted a reference to paragraph (g) of subsection (3) of section one hundred and ninety-one of the Local Government (Scotland) Act, 1947.

138.—(1) Where, by or under the Electricity Act, 1947, or any Act passed during the present Session providing for the establishing of public ownership of the gas industry, any undertaking theretofore carried on by a local authority is transferred to any other body, the authority may enter into an agreement with the body for the performance by the authority, as agent for the body, for such period as may be specified in the agreement, of such of the functions of the body as may be so specified.

Power to
assist in
performance
of transferred
functions.

(2) No agreement shall be made for the performance of functions by a local authority under this section for a period ending later than twelve months after the transfer of the undertaking in question except with the approval—

- (a) in the case of an undertaking in the North of Scotland District transferred by or under the Electricity Act, 1947, of the Secretary of State; or
- (b) in any other case, of both the Minister or, as the case may be, the Secretary of State and the Minister of Fuel and Power.

139. Section two hundred and eleven of the Local Government (Scotland) Act, 1947 (which relates to the expenses of local authorities) shall have effect as if in the proviso after the word "undertakings" there were inserted the words "(other than an undertaking relating to the provision of water)".

Amendment of
Local
Government
(Scotland),
Act, 1947.
s. 211.

PART VIII.

GENERAL.

140.—(1) The Minister shall by regulations provide for the payment by the appropriate authority, subject to such exceptions or conditions as may be specified in the regulations, of compensation to persons who are, or who, but for any war service in which they have been engaged, would be, officers or servants of any

to officers.

PART VIII.
—cont.

rating authority, any joint committee of rating authorities, any assessment committee, any county valuation committee, any council of a county, the quarter sessions for the County of London, the Central Valuation Committee, the Railway Assessment Authority or the Anglo-Scottish Railways Assessment Authority, who suffer loss of employment or loss or diminution of emoluments which is attributable to the coming into force of any Part of this Act.

(2) Any such regulations may include provision as to the manner in which and the persons to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations.

(3) The appropriate authority referred to in subsection (1) of this section is—

- (a) in the case of officers or servants of a rating authority, the rating authority ;
- (b) in the case of officers or servants of a joint committee of rating authorities, all the rating authorities represented on that committee in proportion to the rateable values of their rating areas on the thirty-first day of March, nineteen hundred and forty-eight ;
- (c) in the case of officers or servants of an assessment committee, the rating authority for the assessment area of that committee, or, where the assessment area consists of more than one rating area, all the rating authorities in that assessment area in proportion to the rateable values of their rating areas on the thirty-first day of March, nineteen hundred and forty-eight ;
- (d) in the case of officers or servants of a council of a county or of a county valuation committee, the council of the county ;
- (e) in the case of officers or servants of the quarter sessions for the County of London, the London County Council ; and
- (f) in the case of officers or servants of the Central Valuation Committee, the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, the Minister.

(4) In this section, the expression “ war service ” means service in any of His Majesty’s forces and such other employment as may be prescribed by regulations of the Minister.

Payments to
councils to be
for general
expenditure.

141.—(1) Any sums received under Part I or Part V of this Act,—

- (a) by the council of a county in England or Wales, shall be receipts for general county purposes ;

- (b) by the council of a county borough, of any other borough (including a metropolitan borough) or of an urban district, shall be receipts for the benefit of the whole of the borough or district ;
- (c) by the council of a rural district, shall be receipts in respect of general expenses ; and
- (d) by the council of a rural parish or of a group of rural parishes, or by a parish meeting or the representative body of a parish, shall be receipts in respect of expenses in relation to which a precept is issuable in respect of the whole of the parish or group of parishes.

PART VIII.
—cont.

(2) The reference in subsection (1) of this section to sums received by any council includes a reference to sums the payment whereof is effected by making a deduction from the amount due under a precept.

142.—(1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament :

Provisions as
to statutory
instruments
under this Act.

Provided that this subsection shall not apply where, under any of the preceding provisions of this Act, a power to make regulations is expressed to be exercisable by statutory instrument and either—

- (a) the instrument is required to be laid before Parliament after it is made ; or
- (b) a draft of the instrument is required to be laid before Parliament.

(2) Any power to make orders conferred by this Act shall be exercisable by statutory instrument.

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

Expenses.

- (a) the remuneration of, and any expenses incurred by, valuation officers in carrying out their functions under Part III of this Act, including the remuneration and expenses of persons, whether in the service of the Crown or not, employed to assist valuation officers in the exercise of their said functions ;
- (b) any administrative expenses incurred by the Minister or the Secretary of State under this Act and any compensation payable by the Minister thereunder in the case of officers or servants of the Central Valuation Committee ;

PART VIII.
—cont.

(c) any expenses incurred by the Minister of Works as a consequence of the passing of this Act, including, in particular, any expenses incurred by him under or by reason of any provision of this Act relating to the acquisition of premises.

(2) Any expenses incurred under this Act by the common council of the City of London shall be defrayed out of the general rate authorised to be levied by the council.

Interpretation. 144.—(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 respectively assigned to them, that is to say—

“ Minister ” means the Minister of Health ;

“ local authority ” means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London ;

“ year ” means a period of twelve months beginning with the first day of April ;

“ rating area ”, “ rate ”, “ owner ”, “ hereditament ” and “ clerk ” have (in relation to London as well as the remainder of England and Wales) the meanings assigned to them by section sixty-eight of the Rating and Valuation Act, 1925 ;

“ garden ” includes a park ;

“ railway ” includes a light railway and a tramway authorised to be constructed by any special Act, other than a light railway or tramway laid wholly or mainly along a public highway and used wholly or mainly for the carriage of passengers ;

“ inland waterway ” includes any such waterway, whether natural or artificial ;

“ statutory provision ” means a provision, whether of a general or special nature, contained in, or in any document made or issued under, any Act, whether of a general or special nature.

(2) Any reference in this Act to the rateable value for an area for a year shall be construed as a reference to the total of rateable values shown on the first day of that year in the valuation list in force on that day for that area, or, where there is more than one rating area in that area, to the aggregate of the totals of rateable values shown as aforesaid in the valuation lists for all the rating areas within the area :

Provided that—

(a) where any alteration required to be made under Part V of this Act in the said lists is made after the date as from

which, under the said Part V, it has effect, account shall be taken thereof for the purposes of this subsection as if it had been made in the lists as in force on that date ;

PART VIII
—cont.

- (b) as respects any rating area in London, the references in this subsection to the first day of the year shall, in relation to the first year in which the first new valuation list made under Part III of this Act is in force, and previous years, be construed as references to the sixth day of April in that year.

(3) Any reference in this Act to the product of a rate of a specified sum in the pound for any area shall be construed as a reference to the aggregate of the product of a rate of one penny in the pound for all the rating areas within the area multiplied by the number of pence in the said sum.

(4) The product of a rate of one penny in the pound for a rating area shall, for the purposes of this Act, be taken to be the product of a penny rate for that area as ascertained or estimated for the purpose of subsection (2) of section nine of the Rating and Valuation Act, 1925 :

Provided that—

- (a) in the case of an area in London, the product of a penny rate for the area shall, as respects years as respects which the said subsection (2) does not extend to London, be taken to be the product of a penny rate for the area as ascertained or estimated by the district auditor in accordance with the principles for the time being applicable outside London to the ascertainment and estimation of the product of a penny rate for the purposes of the said section nine ;
- (b) nothing in this subsection detracts from the provisions of this Act enabling the Minister to make regulations as respects the way in which payments for the benefit of local authorities under Part V of this Act are to be treated.

(5) Any reference in this Act to the aggregate gross charge to rates for any year for any area shall be construed as a reference to the total of the amounts required to be paid by virtue of all the rates made by all the authorities in the area for the year or any part thereof, calculated as if, in the case of each hereditament, the amount payable were that ascertained by applying the poundage of the rate to the rateable value of the hereditament, without any allowance or deduction.

(6) In this Act, the expression 1947-48 means the year ending on the thirty-first day of March, nineteen hundred and forty-eight, and any corresponding expression in which two years are

PART VIII. similarly mentioned means the year ending on the thirty-first day of March in the second mentioned of those two years.
—*cont.*

(7) In this Act, the expression “the North of Scotland District” means, as respects any period up to and including the vesting date within the meaning of the Electricity Act, 1947, the North of Scotland District as existing on that date for the purposes of that Act, and, as respects any subsequent period, means that District as for the time being existing for the purposes of that Act.

(8) Any references in this Act to a local authority in a county shall be construed as including only local authorities whose areas form part of the county.

(9) Any reference in this Act to the alteration of a valuation list or draft valuation list includes a reference to the insertion in the list or draft list, or the omission from the list or draft list, of any hereditament, and references to the alteration of the valuation list with respect to a hereditament shall be construed accordingly.

(10) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act.

Application to
Scotland.

145.—(1) This Act in its application to Scotland shall have effect subject to the modifications specified in this section.

(2) The following expressions shall, except so far as the contrary is expressly provided or the context otherwise requires, have the meanings hereby assigned to them, that is to say—

“large burgh” and “small burgh” have the like meanings as in the Local Government (Scotland) Act, 1947;

“local authority” means a county or a town council;

“rate” has the same meaning as in the Local Government (Scotland) Act, 1947, but except in Part V of this Act, does not include a rate levied as a domestic water rate;

“rating authority” has the like meaning as in Part XI of the Local Government (Scotland) Act, 1947.

(3) For any reference to a valuation list there shall be substituted a reference to a valuation roll; for any reference to rates made there shall be substituted a reference to rates levied; for any reference to a hereditament there shall be substituted a reference to lands and heritages within the meaning of the Lands Valuation (Scotland) Act, 1854; and for references to the thirty-first day of March and to the first day of April there shall (except in relation to the abolition of the authorities created

by the Railways (Valuation for Rating) Act, 1930) be respectively substituted references to the fifteenth and to the sixteenth days of May.

(4) Subject to the provisions of subsection (2) of section eighty-five of this Act, any reference to the rateable value for an area for a year shall be construed as a reference to the rateable value shown in the valuation roll for that area in force on the first day of that year or, if the area comprises more than one area for valuation purposes, to the total of the rateable values shown in the roll in force as aforesaid for any part of the area.

(5) The product of a rate of a specified sum in the pound for any area shall be the amount bearing the same proportion to the product of the rate for the area in question as the specified sum bears to the amount in the pound of the rate levied in that area.

For the purposes of this subsection—

- (a) the product of a rate for an area for any year shall be deemed to be the amount actually realised during that year by the collection of the rate in that area; and
- (b) where two or more parts of an area are differentially rated the product of a rate of a specified sum in the pound shall be separately ascertained for each part thereof in accordance with the foregoing provisions of this subsection and the sum of those amounts shall be the product of a rate of the specified sum in the pound for the rating area.

(6) In ascertaining the product of a rate of a specified sum in the pound for any area, it shall be assumed that the sum is divisible between owners and occupiers in the same proportion as the rate levied in that area.

(7) For the purposes of this Act, any contribution made by the Crown in aid of rates in respect of any lands and heritages owned by the Crown or occupied by or on behalf of the Crown for public purposes shall be treated as money paid as rates.

146. The provisions of this Act shall, in relation to the Isles of Scilly, have effect subject to such modifications as the Minister may by order direct, and any order under this section may be revoked or varied by any subsequent order. Application to Isles of Scilly.

147.—(1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

(2) The repeal of the enactments specified in Part I of the said Schedule shall apply only as respects the year 1948-49 and

PART VIII.
—cont.

subsequent years, and, in the case of the repeal in section one hundred and fifty-two of the Local Government Act, 1933, and the repeal of section one hundred and forty-two of the Local Government (Scotland) Act, 1947, shall not affect any adjustments to which those sections respectively apply made in respect of any increase of burden due to an alteration of boundaries or other change taking place before the beginning of the year 1948-49.

(3) The repeal of the enactments specified in Part II of the said Schedule shall have effect as from such day or days as the Minister may by order appoint and different days may be appointed for different enactments, and different purposes of the same enactment, and for different rating areas.

(4) The repeal of the enactments specified in Part III of the said Schedule shall have effect as from the first day of April, nineteen hundred and forty-eight.

(5) The repeal of the enactments specified in Part IV of the said Schedule shall have effect as from the first day of April, nineteen hundred and forty-eight, but shall not apply in relation to any warrant issued by the Commissioner of Police of the Metropolis under any of the said enactments in respect of any period ending before the said day.

(6) The repeal of the enactments specified in Part V of the said Schedule shall have effect as from the passing of this Act :

Provided that—

- (a) the repeal of such of the said enactments as relate to expenses of members of local authorities and other bodies shall not affect any expenses incurred before the date of the passing of this Act ; and
- (b) the repeal of subsection (4) of section one hundred and seventeen of the London Government Act, 1939, shall not affect any precept of the London County Council in respect of any period beginning before the first day of April, nineteen hundred and forty-eight.

Short title
and extent.

148.—(1) This Act may be cited as the Local Government Act, 1948.

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

SCHEDULES.

FIRST SCHEDULE.

Section 70.

MINOR AMENDMENTS CONSEQUENTIAL ON PART III.

1. In subsection (1) of section six of the Rating Act, 1874, for the words "assessment committee" there shall be substituted the words "valuation officer as defined for the purposes of Part III of the Local Government Act, 1948."

2. Subsection (4) of section one of the Rating and Valuation Act, 1925 (which authorises the appointment of additional members of parish councils and parish meetings to act as members of rating authorities for rural rating areas) shall cease to have effect.

3. In subsection (1) of section twenty-four of the Rating and Valuation Act, 1925, the words "under this Part of this Act" shall be omitted; in subsection (2) of that section, for the words "rating authority or assessment committee, as the case may require" there shall be substituted the words "valuation officer"; and in subsection (7) of that section, for the words "under this Part of this Act" there shall be substituted the words "with respect to a valuation list" and for the words "assessment committee" there shall be substituted the words "valuation officer".

SECOND SCHEDULE.

Section 147.

ENACTMENTS REPEALED.

PART I.

Repeals consequential upon Parts I and II of this Act.

Session and Chapter.	Enactment Repealed.	Extent of Repeal.
19 & 20 Geo. 5. c. 17.	The Local Government Act, 1929.	Sections eighty-six to ninety-two, ninety-four to one hundred, one hundred and three and one hundred and four; in section one hundred and five the words "Subject to the provisions of this Part of this Act" and the words "of General or Additional Exchequer Grant or"; sections one hundred and six to one hundred and twelve; proviso (a) to subsection (2)

2ND SCH.
—cont.

Session and Chapter.	Enactment Repealed.	Extent of Repeal.
19 & 20 Geo. 5. c. 17—cont.	The Local Government Act, 1929—cont.	of section one hundred and thirty-one; section one hundred and thirty-five; and the Fourth and Fifth Schedules.
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	Sections fifty-three to sixty-three and sixty-five to seventy-one, seventy-three and seventy-eight; and the Seventh and Eighth Schedules.
23 & 24 Geo. 5. c. 8.	The Local Government (General Exchequer Contributions) Act, 1933.	The whole Act.
23 & 24 Geo. 5. c. 51.	The Local Government Act, 1933.	Paragraph (b) of subsection (1) of section one hundred and fifty-two and the Fifth Schedule.
1 Edw. 8, and 1 Geo. 6. c. 22.	The Local Government (Financial Provisions) Act, 1937.	The whole Act.
1 Edw. 8, and 1 Geo. 6. c. 29.	The Local Government (Financial Provisions) (Scotland) Act, 1937.	The whole Act.
3 & 4 Geo. 6. c. 13.	The Old Age and Widows' Pensions Act, 1940.	Section sixteen.
4 & 5 Geo. 6. c. 33.	The Local Government (Financial Provisions) Act, 1941.	The whole Act.
4 & 5 Geo. 6. c. 45.	The Local Government (Financial Provisions) (Scotland) Act, 1941.	The whole Act.
9 & 10 Geo. 6. c. 24.	The Local Government (Financial Provisions) Act, 1946.	The whole Act.
9 & 10 Geo. 6. c. 25.	The Local Government (Financial Provisions) (Scotland) Act, 1946.	The whole Act.
9 & 10 Geo. 6. c. 81.	The National Health Service Act, 1946.	In section fifty-three, in subsection (1), the words from "and the grant shall be payable" to the end of the subsection, and the whole of subsections (3) and (4).
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act, 1947.	In section fifty-three in subsection (1), the words from "and the grant shall be payable" to the end of the subsection and the whole of subsections (4) and (5).
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act, 1947.	Section one hundred and forty-two.

PART II.

*Repeals consequential upon Part III of this Act.*2ND SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
17 Geo. 2. c. 3.	The Poor Rate Act, 1743.	The whole Act.
6 & 7 Will. 4. c. 96.	The Parochial Assessments Act, 1836.	The whole Act.
11 & 12 Vict. c. 110.	The Poor Law Amendment Act, 1848.	The whole Act.
13 & 14 Vict. c. 101.	The Poor Law Amendment Act, 1850.	The whole Act.
25 & 26 Vict. c. 103.	The Union Assessment Committee Act, 1862.	The whole Act.
27 & 28 Vict. c. 39.	The Union Assessment Committee Amendment Act, 1864.	The whole Act, except sections six and thirteen.
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	Section seven.
31 & 32 Vict. c. 122.	The Poor Law Amendment Act, 1868.	Section twenty-eight.
32 & 33 Vict. c. 41.	The Poor Rate Assessment and Collection Act, 1869.	In section thirteen, the words "the valuation lists and"; section seventeen; and, in section eighteen, the words "with the allowance of the rate by the justices".
32 & 33 Vict. c. 67.	The Valuation (Metropolis) Act, 1869.	Sections six to forty-four; in section forty-five, the words from "shall be deemed to have been duly made" to "incorporated herewith and" and the words from "and of the fact" to "have been so inserted"; and sections forty-six to fifty, and fifty-five to seventy-four.
38 & 39 Vict. c. 33.	The Metropolis Management Act, 1875.	Sections two to four.
44 & 45 Vict. c. 20.	The Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.	Section four.
47 & 48 Vict. c. 5.	The Valuation (Metropolis) Amendment Act, 1884.	The whole Act.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	Subsection (10) of section forty-two and section forty-four.
7 Edw. 7. c. cxl.	The City of London (Union of Parishes) Act, 1907.	Sections fourteen and twenty-nine.
15 & 16 Geo. 5. c. 90.	The Rating and Valuation Act, 1925.	Subsection (4) of section one; section five; in subsection (8) of section eleven, the words "and for the purposes of the provisions of Part II of this

2ND SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
15 & 16 Geo. 5. c. 90—cont.	The Rating and Valuation Act, 1925—cont.	Act relating to objections, appeals and proposals"; section fourteen; sections sixteen to nineteen; section twenty-three; sections twenty-five to forty-seven; subsections (1) to (3) of section fifty-three; in subsection (1) of section fifty-four, the words "of assessment committees and" and the word "respectively"; in subsection (1) of section fifty-five, the words "assessment committees and county valuation committees", and the words "valuation officers"; section fifty-seven; subsection (4) of section sixty-four; and the First, Fourth and Fifth Schedules.
18 & 19 Geo. 5. c. 8.	The Rating and Valuation Act, 1928.	Section four.
18 & 19 Geo. 5. c. 44.	The Rating and Valuation (Apportionment) Act, 1928.	Subsection (2) of section one; in subsection (2) of section seven, the definition of "assessment area"; and, in the Second Schedule, sections twenty-nine, thirty, thirty-eight and forty-four.
19 & 20 Geo. 5. c. 17.	The Local Government Act, 1929.	Section fifteen; in section eighteen, paragraphs (f) and (h); and section seventy.
20 & 21 Geo. 5. c. 28.	The Finance Act, 1930.	Section thirty-two.
22 & 23 Geo. 5. c. 33.	The Rating and Valuation (No. 2) Act, 1932.	The whole Act.
1 & 2 Geo. 6. c. 19.	The Rating and Valuation (Postponement of Valuations) Act, 1938.	The whole Act.
1 & 2 Geo. 6. c. 63.	The Administration of Justice (Miscellaneous Provisions) Act, 1938.	Subsection (2) of section four.
1 & 2 Geo. 6. c. 65.	The Rating and Valuation (Air-Raid Works) Act, 1938.	Subsection (3) of section one.
2 & 3 Geo. 6. c. 40.	The London Government Act, 1939.	Paragraph (b) of subsection (2) of section sixty-six and subsection (4) of section sixty-eight.
3 & 4 Geo. 6. c. 12.	The Rating and Valuation (Postponement of Valuations) Act, 1940.	The whole Act.

PART III.

*Repeals consequential upon Part V of this Act.*2ND SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
17 & 18 Vict. c. 91.	The Lands Valuation (Scotland) Act, 1854.	In section twenty from the beginning of the section to the words "such companies"; and sections twenty-one and twenty-two.
30 & 31 Vict. c. 80.	The Valuation of Lands (Scotland) Amendment Act, 1867.	Sections three and four; and in section nine, the words from "except that," to "items of this Act."
57 & 58 Vict. c. 36.	The Valuation of Lands (Scotland) Acts Amendment Act, 1894.	In section two the words from "in place of" where first occurring to "its undertaking; and".
19 & 20 Geo. 5. c. 17.	The Local Government Act, 1929.	In the Eleventh Schedule, sub-paragraph (2) of paragraph 17.
20 & 21 Geo. 5. c. 24.	The Railways (Valuation for Rating) Act, 1930.	Sections one to twenty-one; in section twenty-two, subsections (1) to (3), the proviso to subsection (4), subsections (6) and (8), and subsection (9) except the definition of the expression "Lands Valuation Appeal Court"; section twenty-three; in section twenty-four the words from "and shall be construed," to the end of the section; and the Schedules.
23 & 24 Geo. 5. c. 14.	The London Passenger Transport Act, 1933.	Section ninety-two.
1 Edw. 8. and 1 Geo. 6. c. 2.	The Railway Freight Rebates Act, 1936.	In sub-paragraph (h) of paragraph 1 of the Schedule, the words from "and at the end of the said paragraph" to the end of the sub-paragraph.
8 & 9 Geo. 6. c. 34.	The Hydro-Electric Undertakings (Valuation for Rating) (Scotland) Act, 1945.	The whole Act.
9 & 10 Geo. 6. c. 61.	The Railways (Valuation for Rating) Act, 1946.	The whole Act.
10 & 11 Geo. 6. c. 49.	The Transport Act, 1947.	Section thirty-four.

2ND SCH.
—cont.

PART IV.

Repeals consequential upon changes as to Metropolitan Police Fund precepting powers.

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 4. c. 44.	The Metropolitan Police Act, 1829.	Sections twenty-three to thirty-three.
20 & 21 Vict. c. 64.	The Metropolitan Police Act, 1857.	Sections eleven to fourteen.
24 & 25 Vict. c. 124.	The Metropolitan Police (Receiver) Act, 1861.	Section seven.
31 & 32 Vict. c. 67.	The Police Rate Act, 1868.	The whole Act.
32 & 33 Vict. c. 67.	The Valuation (Metropolis) Act, 1869.	In section forty-five, the words "the metropolitan police rate".
9 Edw. 7. c. 40.	The Police Act, 1909.	Section two.
9 & 10 Geo. 5. c. 46.	The Police Act, 1919.	In section seven the words "so much of section twenty-three of the Metropolitan Police Act, 1829, as amended by any subsequent enactment, as limits the annual sum to be provided for the purposes of the metropolitan police and".
15 & 16 Geo. 5. c. 90.	The Rating and Valuation Act, 1925.	Subsection (6) of section sixty-four.
19 Geo. 5. c. 17.	The Local Government Act, 1929.	Paragraph 5 of the Tenth Schedule.

PART V.

Repeals consequential upon other provisions of this Act.

Session and Chapter.	Short Title.	Extent of Repeal.
15 & 16 Vict. c. 81.	The County Rates Act, 1852.	The whole Act.
32 & 33 Vict. c. 67.	The Valuation (Metropolis) Act, 1869.	In section forty-five, the words "county rate" and the words "the County Rates Act, 1852, and".
29 & 30 Vict. c. 78.	The County Rate Act, 1866.	The whole Act.
3 Edw. 7. c. 33.	The Burgh Police (Scotland) Act, 1903.	In section forty-four, paragraph 3.
7 Edw. 7. c. 53.	The Public Health Acts Amendment Act, 1907.	Paragraphs (d), (e) and (h) of subsection (1) of section seventy-six.
15 & 16 Geo. 5. c. 71.	The Public Health Act, 1925.	Subsections (1) to (4) of section fifty-six and the proviso to subsection (1) of section seventy.
18 & 19 Geo. 5. c. 8.	The Rating and Valuation Act, 1928.	Subsection (1) of section three.

2ND SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
20 & 21 Geo. 5. c. 44.	The Land Drainage Act, 1930.	In Part II of the First Schedule, sub-paragraph (b) of paragraph 12.
23 & 24 Geo. 5. c. 51.	The Local Government Act, 1933.	In section two hundred and sixty-seven the words "other than a parish council", and section two hundred and ninety-four.
26 Geo. 5 & 1 Edw. 8. c. 49	The Public Health Act, 1936.	The proviso to subsection (1) of section two hundred and twenty-six.
26 Geo. 5 & 1 Edw. 8. c. 50	The Public Health (London) Act, 1936.	The proviso to subsection (1) of section one hundred and seventy-two.
26 Geo. 5 and 1 Edw. 8. c. 51	The Housing Act, 1936.	Subsection (4) of section one hundred and fifteen.
1 Edw. 8. and 1 Geo. 6. c. 36.	The Local Government (Members' Travelling Expenses) Act, 1937.	The whole Act.
1 Edw. 8 and 1 Geo. 6. c. 46.	The Physical Training and Recreation Act, 1937.	In section ten, in subsection (5) the words from "Provided that," to the end of the subsection.
2 & 3 Geo. 6. c. c.	The London County Council (General Powers) Act, 1939.	Section seventy-three.
2 & 3 Geo. 6. c. 40.	The London Government Act, 1939.	Subsection (4) of section one hundred and seventeen, and section one hundred and sixty-three.
6 & 7 Geo. 6. c. 16.	The Agriculture (Miscellaneous Provisions) Act, 1943.	In section seven the words "Sub-paragraph (b) of paragraph 12 of Part II of the First Schedule to the Land Drainage Act, 1930 and", the words "of a Catchment Board", the word "respectively" and the word "each".
9 & 10 Geo. 6. c. 48.	The Housing (Financial and Miscellaneous Provisions) Act, 1946.	Subsections (2) and (3) of section eight.
9 & 10 Geo. 6. c. 50.	The Education Act, 1946.	Section eleven.
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act, 1947.	In section seventy-four in subsection (5) the words from "so however," to the end of the subsection; section three hundred and thirty-eight and the Twelfth Schedule.

CHAPTER 27.

An Act to make provision with respect to the termination of His Majesty's jurisdiction in Palestine, and for purposes connected therewith. [29th April 1948.]

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 :—

Termination
of His
Majesty's
jurisdiction
in Palestine.

1.—(1) On the fifteenth day of May, nineteen hundred and forty-eight, or such earlier date as His Majesty may by Order in Council declare to be the date on which the mandate in respect of Palestine accepted by His Majesty on behalf of the League of Nations will be relinquished (in this Act referred to as "the appointed day"), all jurisdiction of His Majesty in Palestine shall determine, and His Majesty's Government in the United Kingdom shall cease to be responsible for the government of Palestine.

(2) Nothing in this Act shall affect the jurisdiction of His Majesty, or any powers of the Admiralty, the Army Council or the Air Council, or of any other authority, in relation to any of His Majesty's forces which may be in Palestine on or after the appointed day.

Legal
proceedings.

2.—(1) Any appeal to His Majesty in Council which, on the appointed day, is pending from any court in Palestine, not being a prize court constituted under the Prize Acts, 1864 to 1944, shall abate on that day.

(2) No proceeding, whether civil or criminal, shall be instituted in any court to which this subsection applies in respect of anything done, whether within or outside Palestine, by any person in the service of His Majesty or by any person acting under the authority of any such person, if done in good faith and done or purported to be done in the execution of his duty—

(a) before the appointed day, for the maintenance of peace or order in Palestine, or otherwise for the good government thereof ;

(b) whether before, on or after that day, for the purpose of or in connection with the termination of His Majesty's jurisdiction in Palestine or the withdrawal from Palestine of any of His Majesty's forces or of any stores or other property belonging to His Majesty or to any such forces, or the protection of any such forces, stores or property ; or

- (c) on or after that day and before the withdrawal from Palestine of the said forces, for the protection in Palestine of the life or property of any British subject :

Provided that nothing in this subsection shall prevent the institution of any proceedings in respect of anything done before the twenty-sixth day of February, nineteen hundred and forty-eight, or the institution of any proceedings on behalf of His Majesty.

(3) The courts to which the last foregoing subsection applies are British courts, not being courts martial, exercising jurisdiction either within or outside the United Kingdom, except courts in a Dominion, in Southern Rhodesia, or in any territory administered by the government of a Dominion.

(4) For the purposes of this section, a certificate by a Secretary of State or the Admiralty that anything was done under the authority of a person in the service of His Majesty, or was done by any person in the execution of his duty, shall be sufficient evidence of the matter so certified ; and anything done by or under the authority of a person in the service of His Majesty shall be deemed to have been done in good faith unless the contrary is proved.

(5) In this section the expression " Dominion " means a Dominion within the meaning of the Statute of Westminster, 1931, India, Pakistan and Ceylon ; and references in this section to anything done shall be construed as including references to anything omitted to be done. 22 & 23 Geo. 5.
c. 4.

3.—(1) The enactments specified in the First Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeal of enactments and transitional provisions.

(2) Subject to the provisions of this section, any other enactment of the Parliament of the United Kingdom which, immediately before the appointed day, applies or extends to Palestine, whether by virtue of any Order in Council or otherwise, shall cease on the appointed day to apply or extend to Palestine :

Provided that—

- (a) nothing in this subsection shall be construed as preventing the continuance in force of any such enactment after the appointed day as part of the law of Palestine ; and
- (b) subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) shall have effect in relation to any such enactment as if it had been repealed by this Act. 52 & 53 Vict.
c. 63.

(3) The transitional provisions contained in the Second Schedule to this Act shall have effect in relation to the enactments mentioned in that Schedule ; and His Majesty may by Order in

Council direct that any other enactment to which the last foregoing subsection applies shall (subject to such modifications, if any, as may be specified in the Order) have effect, in relation to anything done before the appointed day, as if that subsection had not been enacted.

- (4) His Majesty may by Order in Council make provision—
- (a) for the disposal or application of any property vested in or belonging to the Government of Palestine or any public authority constituted under any law in force in Palestine before the appointed day ;
 - (b) for applying any enactment relating to superannuation, in relation to any person who holds office in the service of the Government of Palestine immediately before the appointed day, as if he continued to hold office during such period after that day as may be determined by or under the Order ;
 - (c) for any other purpose which appears to His Majesty to be necessary or expedient in consequence of the termination of his jurisdiction in Palestine.

Provisions
as to Orders
in Council.

4.—(1) Any Order in Council made under the last foregoing section after the appointed day may be made so as to take effect as from that day or as from such later date as may be specified therein.

(2) Any Order in Council made under the last foregoing section may be varied or revoked by a subsequent Order in Council.

(3) Any such Order in Council as aforesaid shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Short title.

5. This Act may be cited as the Palestine Act, 1948.

SCHEDULES.

FIRST SCHEDULE.

Section 3.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
16 & 17 Geo. 5. c. 62.	The Palestine and East Africa Loans Act, 1926.	<p>In the title, the words "respectively by the Government of Palestine and".</p> <p>In section one, in subsection (1), the words "any loan raised by the Government of Palestine for the purposes set out in the First Schedule to this Act and" and the words from "as respects", in the first place where those words occur, to "aforesaid"; in subsection (2), the words from "in the case of" in the first place where those words occur to "aforesaid", the words "in either case", the words "the said First Schedule or", the words "as the case may be" and the words "in the case of a loan to be raised by any Government other than the Government of Palestine".</p> <p>In section two, the words "Palestine and".</p> <p>The First Schedule.</p>
18 & 19 Geo. 5. c. 17.	The Finance Act, 1928.	In subsection (2) of section thirty-two, the words "Palestine and".
21 & 22 Geo. 5. c. 21.	The Palestine and East Africa Loans (Amendment) Act, 1931.	<p>In the title, the words "Palestine and".</p> <p>In section one, the words "Palestine and".</p> <p>In section two, the words "Palestine and", wherever those words occur.</p>
24 & 25 Geo. 5. c. 33.	The Palestine Loan Act, 1934.	The whole Act.

Section 3.

SECOND SCHEDULE.

TRANSITIONAL PROVISIONS.

Evidence by Commission Act, 1859.

22 Vict. c. 20. 1. An order for the examination of witnesses may be made under section one of the Evidence by Commission Act, 1859, in pursuance of any commission, order or other process issued, before the appointed day, by a court or tribunal in Palestine, and the provisions of that Act shall apply accordingly as if that Act had not ceased to apply to Palestine.

Conveyancing (Scotland) Act, 1874, s. 51.

37 & 38 Vict. c. 94. 2. Section fifty-one of the Conveyancing (Scotland) Act, 1874, shall apply in relation to any probate of the will or other testamentary settlement of a person deceased, issued before the appointed day by a district court in Palestine, as if that section had not ceased to apply to Palestine.

Colonial Prisoners Removal Act, 1884.

47 & 48 Vict. c. 31. 3. Any person who, before the appointed day, has been removed from Palestine under the Colonial Prisoners Removal Act, 1884, may be detained under that Act after that day, and the provisions of that Act shall have effect in relation to any such person as if it had not ceased to apply to Palestine :

Provided that the following provisions of the said Act shall not apply in relation to any such person, that is to say—

- (a) so much of subsection (1) of section eight as relates to the questioning of the conviction, judgment and sentence of a prisoner removed under that Act, and to the remission of his sentence and the ordering of his discharge ;
- (b) so much of subsection (2) of section ten as enables the Government of a British possession from which a criminal lunatic has been so removed to require his return for trial in the event of his recovery.

Colonial Probates Act, 1892.

55 & 56 Vict. c. 6. 4. Any probate or letters of administration in respect of the estate of a deceased person granted before the appointed day by a court in Palestine having jurisdiction in matters of probate may be sealed in the United Kingdom under section two of the Colonial Probates Act, 1892, and the provisions of that Act shall have effect accordingly as if it had not ceased to apply to Palestine.

Administration of Justice Act, 1920.

10 & 11 Geo. 5. c. 81. 5. Any judgment obtained, before the appointed day, in a superior court in Palestine may be registered under Part II of the Administration of Justice Act, 1920, and the provisions of that Part shall have effect accordingly as if it had not ceased to extend to Palestine.

CHAPTER 28.*Army and Air Force (Annual) Act, 1948.*

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 ACT.

3. Powers of arrest of provost marshals, etc.
4. Discharge of soldiers of unsound mind.
5. Liability of officer to maintain wife and children.
6. Amendment of s. 158.
7. Repeal of subsection (1) of s. 187c.
8. Application of Part I to Air Force Act.

PART II.

AMENDMENTS OF THE ARMY ACT.

9. Power of detention in air force corrective establishments.
10. Transfer between corps.
11. Deductions from pay of officers and airmen attached to, or seconded for service with, the regular forces.

PART III.

AMENDMENTS OF THE AIR FORCE ACT.

12. Air force corrective establishments.
13. Amendments as to officers and airmen borne on books of His Majesty's ships and to officers, sailors, and soldiers attached to air force.

PART IV.

VERBAL MODIFICATIONS OF THE ARMY ACT AND THE AIR FORCE ACT
CONSEQUENTIAL ON THE INDIAN INDEPENDENCE ACT, 1947.

14. Repeals and amendments consequential on 10 & 11 Geo. 6. c. 30.

SCHEDULE.—Repeals and Amendments consequential on 10 & 11
Geo. 6. c. 30.

Part I.—Repeals in Army Act.

Part II.—Repeals in Air Force Act.

Part III.—Repeals in Army Act and Air Force Act.

Part IV.—Amendment of Army Act.

Part V.—Amendment of Army Act and Air Force Act.

An Act to provide, during twelve months, for the discipline and regulation of the Army and the Air Force.
[29th April 1948.]

WHEREAS 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 eight hundred and fifty thousand :

And whereas it is adjudged necessary that a body of air forces should be continued for the purposes aforesaid, and that the whole number of such forces should consist of three hundred and twenty-five thousand :

And whereas it is also judged necessary for the safety of the United Kingdom and the defence of the possessions of this realm that a body of Royal Marine forces should be employed in His Majesty's fleet and naval service under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid :

And whereas the said marine forces may frequently be quartered or be on shore, or be sent to do duty or be on board transport ships or vessels, merchant ships or vessels, or other ships or vessels, or they may be under other circumstances in which they will not be subject to the laws relating to the government of His Majesty's forces by sea :

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm, by martial law, or in any other manner than by the judgment of his peers and according to the known and established laws of this realm ; yet, nevertheless, it being requisite, for the retaining all the before-mentioned forces, and other persons subject to military law or to the Air Force Act, in their duty, that an exact discipline be observed and that persons belonging to the said forces who mutiny, or stir up sedition, or desert His Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military or air force discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow :

And whereas the Army Act and the Air Force Act will expire in the year one thousand nine hundred and forty-eight 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, 1948.

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 :—

Army Act and
Air Force Act
to be in force
for specified
times.

- (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-eight, to the thirtieth day of April, nineteen hundred and forty-nine, both inclusive ; and
- (b) Elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July, nineteen hundred and forty-eight, to the thirty-first day of July, nineteen hundred and forty-nine, 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-eight, or in the case of the amendments of those Acts made by section four of this Act, on the date specified in that section. 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 ACT.

Powers of arrest of provost marshals, etc.

3.—(1) In section forty-five of the Army Act (which provides for the custody of persons charged with offences) after paragraph (2) there shall be inserted the following paragraph:—

“(2A) A provost marshal or assistant provost marshal, or any officer or non-commissioned officer legally exercising authority under a provost marshal or on his behalf, may order into military custody any officer or soldier, so however that no officer shall be arrested or detained otherwise than on the order of another officer.”

(2) In paragraph (3) of the said section forty-five for the word “An” where that word first occurs there shall be substituted the words “Without prejudice to the last foregoing paragraph, any”; and for the words “and any such order” in the said paragraph (3) there shall be substituted “(3A) Any order under either of the two last foregoing paragraphs”.

Discharge of soldiers of unsound mind.

4. As from the fifth day of July, nineteen hundred and forty-eight, the following section shall be substituted for section ninety-one of the Army Act (which provides for the reception of discharged soldiers of unsound mind in mental hospitals or other institutions), that is to say:—

“91.—(1) Where it appears to the Army Council or any officer deputed by them that a soldier is—

- (a) a dangerous person of unsound mind; or
- (b) a person of unsound mind requiring treatment in a mental hospital and having no relative who claims to take charge of him; or
- (c) a person of unsound mind having no relative willing to take charge of him,

the Army Council or officer deputed by them may if they or he think proper cause the soldier on his discharge to be received in a mental hospital in accordance with the following provisions of this section.

(2) Where the soldier has a home in Great Britain, the Regional Hospital Board for the area in which his home is situated shall, on request made by the Army Council or officer deputed by them, forthwith designate a mental hospital in their area, and the Army Council or officer deputed by them shall by order direct that the soldier shall be received into that hospital.

- (3) Where the soldier has a home in Northern Ireland—
- (a) the secretary or other officer of the Northern Ireland Hospitals Authority shall, on request made by the Army Council or officer deputed by them, forthwith designate a mental hospital in Northern Ireland, and the Army Council or officer deputed by them shall by order direct that the soldier shall be received into that hospital; and
- (b) the Army Council or officer deputed by them shall, if the case so requires, inform the welfare authority for the purposes of the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland), 1946, and the said welfare authority shall take such steps as may in their opinion be necessary to secure the welfare of the wife and children of the soldier.

PART I.
—cont.

(4) An order made under subsection (2) of this section shall have the like effect, and the like proceedings shall be taken thereon, as if it were an order under section sixteen of the Lunacy Act, 1890, or in Scotland an order of the sheriff made under section fourteen, or in the case of a soldier being a dangerous person of unsound mind, section fifteen, of the Lunacy (Scotland) Act, 1862; and an order under paragraph (a) of subsection (3) of this section shall have the like effect, and the like proceedings shall be taken thereon, as if it were a reception order made under section nine of the Mental Treatment Act (Northern Ireland), 1932, or under any corresponding enactment of the Parliament of Northern Ireland for the time being in force.

53 & 54 Vict.
c. 5.

25 & 26 Vict.
c. 54.

(5) Any question arising under this section whether, and if so where, a person has a home in the United Kingdom shall be decided by the Army Council or an officer deputed by them, and for the purposes of this section a person with no home in the United Kingdom may be treated as if he had a home in such area as may be determined by the Army Council or an officer deputed by them."

5. After subsection (2) of section one hundred and forty-four A of the Army Act (which provides for the sending to the Army Council or an officer deputed by them of an order or decree for payment by an officer of the cost of the maintenance of his wife or children or any illegitimate child of his or of the cost of relief given to his wife or child, and for the deduction from his pay of such portion thereof as the Army Council or deputed officer may determine and the appropriation of the amount deducted in liquidation of the sum ordered to be paid by the order or decree) there shall be inserted the following subsection :—

Liability of
officer to
maintain wife
and children.

"(2A) The last foregoing subsection shall apply as well to orders and decrees made before the date of the coming

PART I.
—*cont.*

into operation of that subsection as to orders and decrees made after that date, but in relation to an order or decree made before that date that subsection shall apply—

- (a) with the substitution for the reference to a man who is or subsequently becomes an officer of the regular forces of a reference to a man who was an officer of the regular forces at the time when the order or decree was made or has subsequently become an officer of those forces ;
- (b) with the substitution for the words ' a copy of such order or decree shall be sent ' of the words ' a copy of such order or decree may be sent ' ; and
- (c) as if the reference to the sum adjudged to be paid by the order or decree included a reference to any arrears accruing thereunder whether before or after the date of the coming into operation of the said subsection (2) ."

Amendment of s. 158. 6.—(1) In the proviso to subsection (1) of section one hundred and fifty-eight of the Army Act (which provides that except in the case of certain offences a person who since the commission of an offence has ceased to be subject to military law shall not be tried for the offence by court-martial unless his trial commences within three months after he had ceased to be subject to military law) after the words " he had ceased to be subject to military law " there shall be inserted the words " or unless the offence was committed outside the United Kingdom and is an offence which when committed in England is punishable by the law of England, and the Attorney-General consents to the trial ".

(2) Subsection (1) of this section shall apply in relation to the trial of an offence after the coming into operation of this Act, whether the offence was committed before or after the coming into operation thereof.

Repeal of subsection (1) of s. 187C. 7. In section one hundred and eighty-seven C of the Army Act, subsection (1) (which enabled certain provisions to have effect as respects New Zealand forces, and persons attached to or accompanying those forces, notwithstanding that the Parliament of New Zealand had not adopted sections two to four of the Statute of Westminster, 1931) shall be omitted.

Application of Part I to Air Force Act. 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.

7 & 8 Geo. 5.
c. 51.

PART II.

AMENDMENTS OF THE ARMY ACT.

9. In section sixty-eight of the Army Act, in paragraph (e) of subsection (2) (which defines the expression "detention barrack" as including, unless the Secretary of State otherwise directs, an air force detention barrack) after the words "air force detention barrack" there shall be added the words "or air force corrective establishment".

Power of detention in air force corrective establishments.

10.—(1) In section eighty-three of the Army Act, in paragraph (2) (which provides that a soldier of the regular forces may with his own consent be transferred by order of the competent military authority to any corps) the words "with his own consent" shall be omitted, and at the end of that paragraph there shall be added the words "so however that, save as otherwise provided in this section, a soldier shall not be so transferred except with his own consent unless either his attestation took place after the thirtieth day of April, nineteen hundred and forty-eight or he has after that date extended his army service or the term of his original enlistment or he has been re-engaged after that date".

Transfer between corps.

(2) Subsection (3) of section three of the Armed Forces (Conditions of Service) Act, 1939 (which provides that where a transfer is authorised both by subsection (2) of that section and by section eighty-three of the Army Act, the transfer shall be deemed to have been effected in pursuance of the said subsection (2)) shall not apply in relation to a transfer authorised by virtue of subsection (1) of this section.

2 & 3 Geo. 6. c. 68.

11.—(1) In section one hundred and seventy-nine A of the Army Act (which provides for the application of that Act to members of the air force attached to, or seconded for service with, the regular forces) in subsection (2), after the words "this Act" where they first occur, and in each place where they occur in paragraph (d) of that subsection, there shall be inserted the words "except sections one hundred and thirty-six to one hundred and forty-five A thereof".

Deductions from pay of officers and airmen attached to, or seconded for service with, the regular forces.

(2) Paragraphs (h) and (i) of subsection (2) of the said section one hundred and seventy-nine A shall be omitted.

(3) At the end of the said section one hundred and seventy-nine A there shall be added the following subsections :—

" (3) Where an officer or airman of the air force is attached to, or seconded for service with, the regular forces, sections one hundred and thirty-six to one hundred and forty-four of this Act shall apply to him as if he were an officer or

PART II.
—cont.

soldier of the regular forces, but subject to the following modifications :—

(a) in paragraph (5) of section one hundred and thirty-seven the references to the Army Council and to this Act shall be construed as references to the Air Council and to sections one hundred and forty-four A and one hundred and forty-five A of the Air Force Act ;

(b) in paragraph (8) of section one hundred and thirty-eight the references to the Army Council and to this Act shall be construed as references to the Air Council and to sections one hundred and forty-five and one hundred and forty-five A of the Air Force Act.

(4) Nothing in the foregoing provisions of this section shall affect the application to any such officer or airman of sections one hundred and forty-four A to one hundred and forty-five A of the Air Force Act."

PART III.

AMENDMENTS OF THE AIR FORCE ACT.

Air Force
corrective
establish-
ments.

12. In section one hundred and thirty-two of the Air Force Act (which provides for the establishment and regulation of detention barracks) for subsection (3A) there shall be substituted 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 air force corrective establishments in lieu of 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 air force 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 air force 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 air force corrective establishments as it applies in relation to detention barracks."

13.—(1) For proviso (d) to section one hundred and seventy-nine of the Air Force Act (which provides that an airman borne on the books of any of His Majesty's ships in commission shall, if of the regular air force, continue to be subject to the provisions of section one hundred and forty-five of the Air Force Act) there shall be substituted the following provisos—

“(d) any such officer shall, if he is an officer of the regular air force, continue to be subject to the provisions of sections one hundred and forty-four A and one hundred and forty-five A of this Act ;

(e) any such airman shall, if he is an airman of the regular air force, continue to be subject to the provisions of sections one hundred and forty-five and one hundred and forty-five A of this Act.”

(2) In section one hundred and seventy-nine A of the Air Force Act (which provides for the application of that Act to members of the naval and military forces attached or lent to, or seconded for service with, the regular air force or the air force reserve) in subsection (2), after the words “this Act” in the second place in which they occur, and in each place where they occur in paragraphs (e) and (f) of that subsection, there shall be inserted the words “except sections one hundred and thirty-six to one hundred and forty-five A thereof”, and the words from “and shall so apply” to “commission in the air force” shall be omitted.

(3) Paragraphs (i) and (j) of subsection (2) of the said section one hundred and seventy-nine A shall be omitted.

(4) After the said subsection (2) there shall be inserted the following subsections :—

“(2A) where an officer, petty officer or seaman of the naval forces, other than one who remains subject to the Naval Discipline Act by virtue of paragraph (1A) of section one hundred and seventy-five or paragraph (1A) of section one hundred and seventy-six of this Act, is attached or lent to, or seconded for service with, the regular air force or the air force reserve, sections one hundred and thirty-six to one hundred and forty-four of this Act shall apply to him as if he were an officer or airman of the regular air force, but subject to the following modifications :—

(a) in paragraph (5) of section one hundred and thirty-seven the references to the Air Council and to this Act shall be construed as references to the Admiralty and to the provisions of the Acts relating to the naval forces corresponding with sections one hundred and forty-four A and one hundred and forty-five A of this Act ;

(b) in paragraph (8) of section one hundred and thirty-eight the references to the Air Council and to this

PART III.
—cont.
Amendments
as to officers
and airmen
borne on
books of His
Majesty's
ships and to
officers,
sailors, and
soldiers
attached to
air force.

PART III.
—cont.

Act shall be construed as references to the Admiralty and to the provisions of the Acts relating to the naval forces corresponding with sections one hundred and forty-five and one hundred and forty-five A of this Act.

(2B) Where an officer, non-commissioned officer or soldier of the military forces is attached, lent, or seconded as aforesaid, sections one hundred and thirty-six to one hundred and forty-four of this Act shall apply to him as if he were an officer or airman of the regular air force, but subject to the following modifications :—

(a) in paragraph (5) of section one hundred and thirty-seven the references to the Air Council and to this Act shall be construed as references to the Army Council and to sections one hundred and forty-four A and one hundred and forty-five A of the Army Act ;

(b) in paragraph (8) of section one hundred and thirty-eight the references to the Air Council and to this Act shall be construed as references to the Army Council and to sections one hundred and forty-five and one hundred and forty-five A of the Army Act.

(2C) The provisions of this Act shall apply as mentioned in subsections (2) to (2B) of this section in the case of any such commissioned officer as is referred to in those subsections notwithstanding that he may also hold a commission in the air force.

(2D) Nothing in the foregoing provisions of this section shall affect the application to any such officer, petty officer, non-commissioned officer, seaman or soldier as aforesaid of sections one hundred and forty-four A to one hundred and forty-five A of the Army Act or the corresponding provisions of the Acts relating to the naval forces.”

PART IV.

VERBAL MODIFICATIONS OF THE ARMY ACT AND THE AIR FORCE ACT CONSEQUENTIAL ON THE INDIAN INDEPENDENCE ACT, 1947.

14. The following verbal modifications of the Army Act and the Air Force Act shall be made in consequence of the Indian Independence Act, 1947 :—

- (a) the provisions specified in the first column of Parts I to III of the Schedule to this Act (which relate respectively to the Army Act, to the Air Force Act, and to both of those Acts) are hereby repealed to the extent specified in the second column thereof,
- (b) the Army Act shall be amended in manner specified in Part IV of that Schedule, and
- (c) the Army Act and the Air Force Act shall be amended in manner specified in Part V of that Schedule.

Repeals and amendments consequential on 10 & 11 Geo. 6. c. 30.

SCHEDULE.

Section 14.

REPEALS AND AMENDMENTS CONSEQUENTIAL ON 10 & 11 GEO. 6. c. 30.

PART I.

REPEALS IN ARMY ACT.

<i>Section.</i>	<i>Extent of Repeal.</i>
Forty-three ...	The words from "or in the case" to "may appoint".
One hundred and seventy-two	In subsection (1) the words "or by the Commander-in-Chief of the forces in India" and the words "Commander-in-Chief or".
One hundred and seventy-five.	In paragraph (4) the word "India"; in paragraph (7) the words "or of the Governor-General of India" and the words from "subject to this qualification" to the end of the paragraph; paragraph (9); in paragraph (11) the words "India or".
One hundred and seventy-six.	In paragraph (3) the word "India"; in paragraph (8A) the words "India or"; in paragraph (10) the words from "subject to this qualification" to the end of the paragraph.
One hundred and seventy-seven.	The words "India or" wherever they occur.
One hundred and seventy-nine.	In paragraph (8) the words "the Commander-in-Chief of the forces in India or" and the words "Commander-in-Chief or".
One hundred and seventy-nine A.	In subsection (2), in paragraph (e) the words "the Commander-in-Chief of the forces in India or" and the words "Commander-in-Chief or".
One hundred and eighty-three.	In paragraph (2), sub-paragraph (a) and in sub-paragraph (b) the word "elsewhere"; in paragraph (4), in proviso (b), the words from "and in India" to "appoint".
One hundred and ninety.	In paragraph (8) the words "His Majesty's Indian forces"; paragraphs (21) to (22); in paragraph (23A) the words "of British India"; paragraph (26); in paragraph (33) the words from "and so far" to the end of the paragraph; in paragraph (35), in sub-paragraph (d) the word "India".

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PART II.

REPEALS IN AIR FORCE ACT.

<i>Section.</i>	<i>Extent of Repeal.</i>
One hundred and seventy-five.	In paragraph (4) the word "India"; in paragraph (7) the words "or of the Governor-General of India"; paragraph (11A).
One hundred and seventy-six.	In paragraph (3) the word "India"; paragraph (8B).
One hundred and seventy-seven.	The words "India or" wherever those words occur, the words "or paragraph (11A)", the words "or paragraph (8B)" and the words from "and (ii) powers" to the end of the section.
One hundred and ninety.	In paragraphs (4), (5) and (5A), the words "or of a force raised in India"; paragraph (21); paragraph (21B); in paragraph (23A) the words "of British India"; paragraph (26); in paragraph (33) the words from "and so far" to the end of the paragraph; in paragraph (35), in sub-paragraph (e) the word "India".

PART III.

REPEALS IN ARMY ACT AND AIR FORCE ACT.

<i>Section.</i>	<i>Extent of Repeal.</i>
Thirteen	In subsection (1) the words "India or".
Fifty-nine	The words "India or" in both places where those words occur, and the words "as the case may require".
Sixty	The words "India or" in both places where those words occur.
Sixty-four	In subsection (4) the word "India" in the first two places where it occurs, the words "India or" in the third place where they occur, and the words "the Governor-General of India, the Governor of a Province in India, or".
Sixty-eight	In subsection (2), in paragraphs (f) and (g) the words "India or" wherever they occur, and in paragraph (h) the word "India".
Ninety-four	The words "India or" and the words from "in India any person" to "Governor-General of India; and".
One hundred and twenty-two.	In subsection (6) the words "the Governor-General of India and".

<i>Section.</i>	<i>Extent of Repeal.</i>
One hundred and thirty.	In subsection (5), the words " and in the case of a person confined in India, the Governor-General of India, or the Governor of any Province in which the person is confined " and the word " India " in the last two places where it occurs.
One hundred and thirty-two.	In subsection (1) the words " and in India for the Governor-General " and the words " Governor-General " in the second place where they occur.
One hundred and thirty-four.	The whole section.
One hundred and thirty-five.	The words " the Governor-General of India, the Governor of any Province in India or ", the words " India or " in the second place where they occur, the words " the Governor-General of India, the Governor of the Province or " and the words " as the case may be ".
One hundred and forty-three.	In subsection (1) the words " India or ".
One hundred and fifty-four.	In paragraph (5) the words from " and if in India " to " where the court sits "; in paragraph (7) the words " India or ".
One hundred and fifty-six.	In subsection (8) the words " for the Governor-General of India or " and the words " Governor-General or ".
One hundred and sixty-two.	In subsection (3) the words " or in a High Court in India ".
One hundred and sixty-three.	In subsection (1), in paragraph (d) the words " if in the United Kingdom " and the words " and if in India, by some office under the Governor-General of India "; in subsection (2) the words " and in India any Government press ".
One hundred and sixty-eight.	The word " India ".
One hundred and sixty-nine.	The words " for the Governor-General of India and " and the words " Governor-General or ".
One hundred and seventy.	In subsection (3) the words " or in a High Court in India ", the words " Indian or " and the word " respectively ".
One hundred and eighty.	The whole section.
One hundred and eighty-one.	In subsection (1) the words " India or ".

PART IV.

AMENDMENT OF ARMY ACT.

In section seventy-three, in subsection (3), for the words from the third " or " to the end there shall be substituted the words " and as respects forces outside the United Kingdom includes, subject to any directions given by the Army Council, the general or other officer commanding the forces ".

PART V.

AMENDMENT OF ARMY ACT AND AIR FORCE ACT.

In section one hundred and ninety, in paragraph (23) for the words from the third " the " to the end there shall be substituted the words " Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, Eire, India, Pakistan, Ceylon and Newfoundland " and in paragraph (24) for the words " a colony, India " there shall be substituted the words " or a colony ".

CHAPTER 29.
National Assistance Act, 1948.

ARRANGEMENT OF SECTIONS.

PART I.

INTRODUCTORY.

Section.

1. Supersession of existing poor law.

PART II.

NATIONAL ASSISTANCE.

The National Assistance Board.

2. The National Assistance Board.
3. Advisory committees.

Giving of Assistance by Board.

4. Duty of Board to assist persons in need.
5. Determination of need for assistance.
6. Preparation, making and coming into operation of regulations under section five.
7. Aggregation of requirements and resources.
8. Assistance grants.
9. Disqualifications for assistance grants.
10. Assistance in special cases.
11. Disqualification etc. not to prevent assistance in cases of urgency.
12. Assistance in kind.
13. Prevention of duplication of payments.
14. Appeals under Part II.
15. Supplementary provisions as to assistance.

Re-establishment Centres and Reception Centres.

Section.

16. Re-establishment centres.
17. Reception centres.
18. Accommodation in reception centres in special cases.
19. Management of re-establishment and reception centres.
20. Contributions to centres maintained by voluntary organisations.

PART III.

LOCAL AUTHORITY SERVICES.

Provision of Accommodation.

21. Duty of local authorities to provide accommodation.
22. Charges to be made for accommodation.
23. Management of premises in which accommodation provided.
24. Authority liable for provision of accommodation.
25. Power of Board to require provision of accommodation in urgent cases.
26. Provision of accommodation in premises maintained by voluntary organisations.
27. Investigation of resources etc. by Board.
28. Exchequer contributions to local authorities.

Welfare services.

29. Welfare arrangements for blind, deaf, dumb and crippled persons, etc.
30. Voluntary organisations for disabled persons' welfare.
31. Contributions to old people's organisations.

Financial adjustments between Local Authorities.

32. Adjustments between authority providing accommodation, etc., and authority of area of residence.

Local and Central Authorities.

33. Local Authorities for purposes of Part III.
34. Provisions as to local authority schemes.
35. Central Authority for purposes of Part III.
36. Default powers of Minister.

PART IV.

GENERAL AND SUPPLEMENTARY.

Registration etc. of homes for disabled persons and the aged and charities for disabled persons.

37. Registration of disabled persons' and old persons' homes.
38. Procedure and right of appeal where registration refused or cancelled.
39. Inspection of disabled persons' and old persons' homes.
40. Supplementary provisions as to regulation of disabled persons' or old persons' homes.
41. Registration of charities for disabled persons.

Recovery of Expenses.

Section.

- 42. Liability to maintain wife or husband, and children.
- 43. Recovery of cost of assistance from persons liable for maintenance.
- 44. Affiliation orders.
- 45. Recovery in cases of misrepresentation or non-disclosure.

Miscellaneous.

- 46. Amendments of Old Age Pensions Act, 1936.
- 47. Removal to suitable premises of persons in need of care and attention.
- 48. Duty of councils to provide temporary protection for property of persons admitted to hospitals, etc.
- 49. Expenses of council officers acting as Receivers.
- 50. Burial or cremation of the dead.
- 51. Failure to maintain.
- 52. False statements.

Supplementary.

- 53. The Appeal Tribunal.
- 54. Inquiries.
- 55. Provisions as to entry and inspection.
- 56. Legal proceedings.
- 57. Ascertainment of war savings.
- 58. Acquisition of land.
- 59. Accounts of councils of county boroughs.
- 60. Compensation of displaced officers.
- 61. Expenses and receipts.
- 62. Transitional provisions, consequential adaptation of enactments and repeals.
- 63. Regulations, rules and orders.
- 64. Interpretation.
- 65. General provisions as to application to Scotland.
- 66. Application to Isles of Scilly.
- 67. Provisions as to Northern Ireland.
- 68. Short title and commencement.

SCHEDULES :

First Schedule—Constitution and Proceedings of National Assistance Board.

Second Schedule—Resources to be disregarded.

Third Schedule—Administrative provisions as to local authorities.

Part I—Committees.

Part II—Joint Boards.

Part III—Application to Scotland.

Fourth Schedule—Amendments of 26 Geo. 5 & 1 Edw. 8. c. 31.

Fifth Schedule—Constitution and Proceedings of Appeal Tribunals.

Sixth Schedule—Transitional provisions.

Seventh Schedule—Enactments Repealed.

Part I—The existing poor law.

Part II—The existing poor law in Scotland.

Part III—Other enactments repealed.

An Act to terminate the existing poor law and to provide in lieu thereof for the assistance of persons in need by the National Assistance Board and by local authorities; to make further provision for the welfare of disabled, sick, aged and other persons and for regulating homes for disabled and aged persons and charities for disabled persons; to amend the law relating to non-contributory old age pensions; to make provision as to the burial or cremation of deceased persons; and for purposes connected with the matters aforesaid.

[13th May 1948.]

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.

INTRODUCTORY.

1. The existing poor law shall cease to have effect, and shall be replaced by the provisions of Part II of this Act as to the rendering, out of moneys provided by Parliament, of assistance to persons in need, the provisions of Part III of this Act as to accommodation and other services to be provided by local authorities, and the related provisions of Part IV of this Act. Supersession
of existing
poor law.

PART II.

NATIONAL ASSISTANCE.

The National Assistance Board.

2.—(1) The Assistance Board shall be known as the National Assistance Board, and in addition to the functions for the time being exercisable under any other enactment shall exercise the functions conferred on them by the following provisions of this Act. The National
Assistance
Board.

(2) The National Assistance Board (hereafter in this Act referred to as "the Board") shall exercise their functions in such manner as shall best promote the welfare of persons affected by the exercise thereof.

(3) For the purpose of securing the prompt discharge of their functions under this Act, the Board shall by regulations provide for the local administration of their said functions,

PART II.
—*cont.*

and in particular, but subject to any arrangements for the discharge thereof by officers of another Government department or of a local authority, for the discharge by local officers of the Board of the functions of the Board in relation to applications for assistance and the decision of all questions arising thereon.

(4) Annual reports on the activities of the Board shall be made by the Board to the Minister of National Insurance, and the said Minister shall lay each report of the Board under this subsection before Parliament.

(5) The constitution and proceedings of the Board shall continue to be governed by the provisions set out in the First Schedule to this Act, being the provisions in that behalf of the Unemployment Assistance Act, 1934.

24 & 25 Geo. 5.
c. 29.

Advisory
Committees.

3.—(1) For the purpose of securing that full use is made of the advice and assistance, both on general questions and on difficult individual cases, of persons having local knowledge and experience in matters affecting the functions of the Board, the Board shall arrange for the establishment of advisory committees throughout Great Britain to act for such areas as the Board think fit.

(2) The Board shall pay to members of advisory committees appointed by the Board such travelling and other allowances (including compensation for loss of remunerative time) as the Board, after consultation with the Minister of National Insurance and with the consent of the Treasury, may determine.

Giving of Assistance by Board.

Duty of
Board to assist
persons in
need

4. It shall be the duty of the Board in accordance with the following provisions of this Part of this Act to assist persons in Great Britain who are without resources to meet their requirements, or whose resources (including benefits receivable under the National Insurance Acts, 1946) must be supplemented in order to meet their requirements.

Determination
of need for
assistance.

5.—(1) The question whether a person is in need of assistance, and the nature and extent of any assistance to be given to him, shall, subject to the provisions of this Act as to appeals, be decided by the Board.

(2) The Minister of National Insurance shall in accordance with the provisions of the next following section make regulations as to the computation of requirements and resources for the purposes of this Part of this Act and as to the decision of any such question as aforesaid, and the Board shall give effect to the relevant provisions of the regulations.

(3) Regulations under this section may make different provision for different classes of cases, and in particular shall make special provision for blind persons and persons who have suffered a loss of income in order to undergo treatment for tuberculosis of the respiratory system.

(4) Regulations under this section shall include provision for securing that the rules as to disregarding certain assets set out in the Second Schedule to this Act shall be observed in computing resources.

6.—(1) The Board shall as soon as may be after the passing of this Act, and thereafter from time to time as occasion may require, prepare and submit to the Minister of National Insurance (in this section referred to as "the Minister") draft regulations under the last foregoing section.

Preparation, making and coming into operation of regulations under section five.

(2) The Minister shall consider any draft submitted to him under the last foregoing subsection and shall make draft regulations either in the form of the draft as submitted or with such variations and amendments as he thinks fit.

(3) Where the Minister makes any draft regulations otherwise than in the form of the draft submitted to him, then before making the draft regulations he shall inform the Board of the variations and amendments which he intends to make, the Board shall report to him thereon, and he shall consider the report.

(4) Any draft regulations made by the Minister under this section shall be laid before Parliament as soon as may be after they are made, and, if the draft regulations so laid are made otherwise than in the form submitted to the Minister, there shall also be laid before Parliament a statement of the Minister's reasons for, and a copy of the report of the Board on, the variations and amendments made by him.

(5) If each House resolves that draft regulations made by the Minister under this section be approved, the Minister shall in the terms of the draft make regulations under the last foregoing section to take effect on such date as may be specified in the regulations.

7.—(1) Where it appears to the Board that an applicant for assistance has to provide for requirements of some other person being a member of the same household, the Board shall, subject to the provisions of this Act, give assistance by reference to the aggregate requirements and aggregate resources of the applicant and the said other person.

Aggregation of requirements and resources.

(2) Where in the giving of assistance to an applicant therefor the requirements of another person are taken into account, that person is in this Act referred to as a dependant of the applicant.

PART II.
—cont.

(3) Where a husband and wife are members of the same household, their requirements and resources shall in all cases be aggregated for the purposes of this Part of this Act.

(4) Notwithstanding anything in the foregoing provisions of this section, where it appears to the Board expedient so to do for the purpose of giving assistance in accordance with the provisions of subsection (3) of section eight or the provisions of section ten of this Act, the Board may decline to treat as a dependant of an applicant for assistance any person who has attained the age of sixteen years.

(5) No application for assistance shall be made by a person who has not attained the age of sixteen years, but nothing in this subsection shall prejudice the giving of assistance by reference to the requirements of any such person as a dependant of another person.

(6) Regulations under section five of this Act shall include provision for securing, in the case of a person being a member of a household,—

- (a) that the resources of any other member of the household, not being the husband or wife, or a dependant, of the said person, shall not be treated as resources of the said person;
- (b) that if he is the householder his resources shall, unless exceptional circumstances are shown, be deemed to include contributions at the prescribed rate towards the expenses of the household from members thereof who are not dependants of his:

Provided that paragraph (b) of this subsection shall not have effect in relation to a householder who is a blind person or the husband or wife of a blind person.

Assistance
grants.

8.—(1) Subject to the provisions of this Part of this Act, the Board shall discharge their duty to give assistance by the making of grants in money (hereafter in this Act referred to as “ assistance grants ”).

(2) Where it appears to the Board that it is necessary for protecting the interests of an applicant for an assistance grant or of his dependants that the whole or any part of the grant should be issued to some person other than the applicant, the Board may issue the grant accordingly.

(3) The Board may require, as a condition of the making of an assistance grant to a person, that he shall be registered for employment in such manner as may be prescribed by the Board.

(4) Stamp duty shall not be chargeable on any receipt for an assistance grant.

9.—(1) An assistance grant shall not be made to meet the requirements of a person (including requirements to provide for any other person) for any period during which that person is engaged in remunerative full-time work, and where a husband and wife are members of the same household no assistance grant shall be made to meet the requirements of the wife for any period during which the husband is so engaged:

PART II.
—cont.
Disqualifications for assistance grants.

Provided that this subsection shall not, where regulations of the Board so provide, apply until the expiration of such time from the beginning of the engagement as may be prescribed by the regulations.

(2) The last foregoing subsection shall not apply in the case of work otherwise than under a contract of service where the earning power of the person engaged in the work is, by reason of a disability, substantially reduced in comparison with that of other persons similarly occupied.

(3) An assistance grant shall not be made to meet the requirements of a person, other than requirements to provide for any other person, for any period during which he is without employment by reason of a stoppage of work which was due to a trade dispute at his place of employment and during which the stoppage of work continues, unless during the stoppage of work he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation:

Provided that this subsection shall not apply in the case of a person who proves—

- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and
- (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.

10.—(1) Where it appears to the Board that an applicant for assistance, being a person who is not in receipt of unemployment benefit under the National Insurance Act, 1946, refuses or neglects to maintain himself or any person whom for the purposes of this Act he is liable to maintain, the Board may make a report to the Appeal Tribunal, and the Tribunal, after giving the applicant an opportunity of being heard, may direct that during such period as may be specified in the direction he shall be subject to the following provisions of this section.

Assistance in special cases.
9 & 10 Geo. 6.
c. 67.

PART II.
—cont.

(2) The Board may require, as a condition of the making of an assistance grant in respect of any such period as aforesaid, that the applicant shall attend such course of instruction or training approved by the Minister of National Insurance for the purpose of this section as the Board may specify and that he shall comply with the rules there in force.

(3) The Board may, in lieu of giving assistance in respect of any period specified in a direction under subsection (1) of this section by the making of assistance grants, give assistance by maintaining the applicant in a re-establishment centre provided under this Part of this Act or in accordance with arrangements under subsection (4) of this section, or subsection (5) thereof so long as it is in force, and by making to him such payments (if any) for meeting his personal requirements as the Board think fit.

(4) The Board may enter into arrangements with another Government department or with a voluntary organisation for the maintenance of persons in whose case directions under subsection (1) of this section are in force in a centre provided by the department or organisation for purposes similar to the purposes of a re-establishment centre.

(5) The Board may make arrangements with a local authority managing premises in which accommodation is provided under Part III of this Act for the maintenance of such persons as aforesaid in accommodation provided in the premises for the purposes of this subsection.

(6) Where a person in whose case a direction under subsection (1) of this section is in force represents to the Appeal Tribunal that there has been a change of circumstances and that by reason thereof the direction ought to be revoked, the Tribunal, after giving the Board an opportunity of being heard, may if they think fit revoke the direction.

(7) Subsection (5) of this section shall continue in force for two years and no longer.

Disqualifica-
tion etc. not
to prevent
assistance in
cases of
urgency.

11.—(1) Nothing in the two last foregoing sections nor any disqualification or condition attaching thereunder shall prevent the Board's making an assistance grant in an urgent case, and in the making of a grant by virtue of this subsection the Board shall not be bound by any regulations under this Part of this Act which appear to them inappropriate in the circumstances of the case.

(2) Where by virtue only of the last foregoing subsection the Board make an assistance grant to meet the requirements of a person engaged in remunerative full-time work, they

may recover from him the whole or part of the assistance grant if they are satisfied that the circumstances are such that it is equitable so to do.

PART II.
—cont.

12.—(1) Where it appears to the Board that by reason of special circumstances the requirements of a person can best be met by giving in kind the whole or part of assistance of which he is in need, the Board may so give assistance instead of giving assistance in money. Assistance
in kind.

(2) References in this Part of this Act to the giving of assistance in kind include references to the issuing of orders for the free provision of goods or services.

(3) Notwithstanding anything in this Part of this Act or regulations made thereunder, in giving assistance in accordance with this section to meet sudden and urgent need the Board may dispense with inquiry into resources or other circumstances and with compliance with any regulations of the Board.

(4) Subject to the last foregoing subsection, the provisions of this Act other than this section shall apply to assistance given in accordance with this section as they apply to assistance grants, but with the substitution for references to the amount of the grant of references to the value of the assistance.

13.—(1) Where payments in respect of—

(a) unemployment, sickness, maternity, or widow's benefit, guardian's allowance, or retirement pension under the National Insurance Act, 1946,

Prevention
of duplication
of payments.

(b) benefit under the National Insurance (Industrial Injuries) Act, 1946,

9 & 10 Geo. 6.
c. 62.

(c) pension under the Old Age Pensions Act, 1936, or

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

(d) allowances under the Family Allowances Act, 1945,

8 & 9 Geo. 6.
c. 41.

are in arrears for any period and assistance grants have been made for that period by reference to the requirements of the person to whom the payments are due, the payments may, at the discretion of the authority administering the benefit, pension or allowances in question, be abated to the extent to which the actual amount of those assistance grants exceeds what would have been their amount, as decided by the Board, if the said payments had not fallen into arrears.

(2) Where the liabilities of any fund are reduced by virtue of the last foregoing subsection, there shall be paid out of that fund into the Exchequer an amount equal to the reduction.

PART II.
—cont.
Appeals
under Part II.

14.—(1) Where a person applying for, or in receipt of, assistance is aggrieved by a decision of the Board with respect to any of the following matters, that is to say—

- (a) a refusal to give assistance;
- (b) the amount of an assistance grant;
- (c) the issuing of an assistance grant to a person other than the applicant therefor;
- (d) any condition subject to which an assistance grant is made;
- (e) the giving of assistance in kind or the nature or extent of assistance in kind;
- (f) a decision under subsection (2) of section eleven of this Act to recover the whole or part of an assistance grant;
- (g) the amount of an abatement under subsection (1) of section thirteen of this Act,

he may appeal to the Appeal Tribunal.

(2) A notice stating the effect of subsection (1) of this section shall be conspicuously displayed in every office where assistance grants are made.

(3) Where on an appeal under this section any question arises whether a person is disqualified for an assistance grant by virtue of the provisions of this Part of this Act relating to trade disputes, that question shall be referred by the Appeal Tribunal for determination in the manner provided under section forty-three of the National Insurance Act, 1946, and the provisions of the said section forty-three shall have effect accordingly with respect to any question so referred.

(4) On an appeal under this section the Appeal Tribunal may confirm the decision of the Board appealed against or substitute therefor any decision which the Board could have made under this Part of this Act, and any decision of the Tribunal shall be conclusive for all purposes.

(5) Notwithstanding anything in the enactments referred to in subsection (1) of section thirteen of this Act, a decision of the Board as to the amount of any abatement under the said subsection (1) shall, subject to any appeal under this section, be conclusive for the purposes of the said enactments.

15.—(1) The Board may by regulations make provision for carrying this Part of this Act into effect, and in particular (but without prejudice to the generality of this subsection) as to the manner in which applications for assistance are to be made, in which evidence is to be provided of matters relevant to the giving of assistance, and in which assistance grants are to be issued.

Supple-
mentary
provisions as
to assistance.

(2) In so far as regulations under this section provide for the issuing of assistance grants through the Post Office, the regulations shall not have effect unless confirmed by the Postmaster General.

(3) Regulations under this section shall have effect subject to the provisions of regulations under section five of this Act.

Re-establishment Centres and Reception Centres.

16. For the re-establishment of persons in need thereof through lack of regular occupation or of instruction or training the Board may subject to the approval of the Minister of National Insurance provide centres, to be known as re-establishment centres, where (whether in consequence of a decision of the Board under section ten of this Act or otherwise) such persons may attend or may be maintained by the Board, and in either case may be afforded by the Board the occupation, instruction or training requisite to fit them for entry into or return to regular employment.

17.—(1) It shall be the duty of the Board to make provision whereby persons without a settled way of living may be influenced to lead a more settled life, and the Board shall provide and maintain centres, to be known as reception centres, for the provision of temporary board and lodging for such persons.

(2) The Board may require the councils of counties, county boroughs and large burghs to exercise on behalf of, and in accordance with any directions given by, the Board the functions of the Board under the last foregoing subsection of providing and maintaining reception centres.

(3) A council may recover from the Board any expenditure under the last foregoing subsection incurred by them with the approval of the Board, given either as respects that expenditure or generally as respects expenditure up to a specified amount.

(4) Before giving directions under subsection (2) of this section the Board shall consult with such local authorities or associations of local authorities as appear to the Board to be concerned.

18.—(1) This section applies to reception centres (hereinafter referred to as "designated reception centres") designated by the Minister of National Insurance for the purposes of this section on the application of the Board.

(2) Where a person seeks lodging in a designated reception centre and it appears to the Board, or if the centre is being provided by a local authority to the local authority, that the

PART II.
—cont.

said person persistently resorts to reception centres when capable of maintaining himself, the Board or local authority may direct that he shall only be received into the centre subject to the conditions specified in subsection (4) of this section.

(3) On a direction being given under the last foregoing subsection the person to whom it relates may require that the matter shall be referred to the Appeal Tribunal, and if he so requires—

(a) the direction shall not have effect until the matter has been determined by the Tribunal, and

(b) on any such reference the Tribunal may either quash the direction or order that during such period as may be specified in the order he shall only be admitted to a designated reception centre subject to the conditions specified in the next following subsection.

(4) The conditions hereinbefore referred to are—

(a) that the person in question shall remain at the centre for at least such period from the time he entered it, not exceeding forty-eight hours, as the Board or the local authority providing the centre may require, and

(b) that while the person in question is at the centre he shall do such suitable work within the curtilage thereof as the Board or local authority may require.

(5) A person received into a centre subject to the said conditions shall, if he fails to comply therewith, be liable on summary conviction to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month.

Management
of re-establishment
and reception
centres.

19.—(1) The Board may by regulations make provision for the management of, and preservation of order in, re-establishment centres maintained by the Board and reception centres maintained by them or on their behalf, and such regulations may provide that any person who contravenes or fails to comply with any specified provision thereof shall be liable on summary conviction to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month.

(2) Regulations under the last foregoing subsection may include provision requiring persons accommodated or received in centres, or specified classes of such persons, to do such work for assisting in the running of the centres as may be specified by or under the regulations.

(3) Rules made by a local authority under Part III of this Act for the preservation of order in premises in which accommodation is provided under the said Part III may provide

that this subsection shall apply in relation to any provision of the rules, and where such rules so provide any person to whom under subsection (5) of section ten of this Act assistance is given by maintenance in the premises and who contravenes or fails to comply with the provision in question shall be liable on summary conviction to such a fine or to such imprisonment as aforesaid.

PART II.
—cont.

20. The Board may make contributions to the funds of any voluntary organisation maintaining centres for purposes similar to the purposes of re-establishment centres or reception centres maintained by the Board.

Contributions
to centres
maintained
by voluntary
organisations.

PART III.

LOCAL AUTHORITY SERVICES.

Provision of Accommodation.

21.—(1) It shall be the duty of every local authority, subject to and in accordance with the provisions of this Part of this Act, to provide—

Duty of local
authorities
to provide
accommo-
dation.

- (a) residential accommodation for persons who by reason of age, infirmity or any other circumstances are in need of care and attention which is not otherwise available to them;
- (b) temporary accommodation for persons who are in urgent need thereof, being need arising in circumstances which could not reasonably have been foreseen or in such other circumstances as the authority may in any particular case determine.

(2) In the exercise of their said duty a local authority shall have regard to the welfare of all persons for whom accommodation is provided, and in particular to the need for providing accommodation of different descriptions suited to different descriptions of such persons as are mentioned in the last foregoing subsection.

(3) A local authority shall exercise their functions under this section in accordance with a scheme made thereunder.

(4) Accommodation provided by a local authority in the exercise of their said functions shall be provided in premises managed by the authority or, to such extent as may be specified in the scheme under this section, in such premises managed by another local authority as may be agreed between the two authorities and on such terms, including terms as to the reimbursement of expenditure incurred by the said other authority, as may be so agreed.

PART III.
—cont.

(5) References in this Act to accommodation provided under this Part thereof shall be construed as references to accommodation provided in accordance with this and the five next following sections, and as including references to board and other services, amenities and requisites provided in connection with the accommodation except where in the opinion of the authority managing the premises their provision is unnecessary.

(6) References in this Act to a local authority providing accommodation shall be construed, in any case where a local authority agree with another local authority for the provision of accommodation in premises managed by the said other authority, as references to the first-mentioned local authority.

(7) Without prejudice to the generality of the foregoing provisions of this section, a local authority may—

- (a) provide, in such cases as they may consider appropriate, for the conveyance of persons to and from premises in which accommodation is provided for them under this Part of the Act;
- (b) themselves provide on the premises in which accommodation is being provided such health services, not being specialist services or services of a kind normally provided only on admission to a hospital, as appear to the authority requisite and as may be specified in the scheme under this section;
- (c) arrange for the provision on the premises of local health services.

In this subsection the expression "local health services" means the like services as are provided under Part III of the National Health Service Act, 1946, or of the National Health Service (Scotland) Act, 1947, for persons in their own homes; and a local health authority for the purposes of the said Part III shall by virtue of this subsection have power to provide any local health services to which arrangements under this subsection relate.

(8) Save as provided in the last foregoing subsection, nothing in this section shall authorise or require a local authority to make any provision authorised or required to be made (whether by that or by any other authority) by or under any enactment not contained in this Part of this Act.

Charges to
be made for
accommoda-
tion.

22.—(1) Persons for whom accommodation is provided under this Part of this Act shall pay for the accommodation in accordance with the following provisions of this section.

(2) Subject to the following provisions of this section, the payment for any such accommodation shall be in accordance

with a standard rate fixed for that accommodation by the authority managing the premises in which it is provided.

PART III.
—cont.

(3) Where a person for whom accommodation in premises managed by any local authority is provided, or proposed to be provided, under this Part of this Act satisfies the local authority that he is unable to pay therefor at the standard rate, the authority shall assess his ability to pay (apart from any supplementation of his resources which he will receive under Part II of this Act), and accordingly determine at what lower rate he shall be liable to pay for the accommodation:

Provided that the liability shall in no case be reduced below such sum per week as may be prescribed by the Minister.

(4) In assessing for the purposes of the last foregoing subsection a person's ability to pay, a local authority shall assume that he will need for his personal requirements such sum per week as may be prescribed by the Minister, or such other sum as in special circumstances the authority may consider appropriate.

(5) In assessing as aforesaid a person's ability to pay, a local authority shall give effect to the relevant provisions of the Second Schedule to this Act.

(6) Where temporary accommodation is provided for a person for less than a week, or it appears to the authority managing the premises in which temporary accommodation is being provided for a person that by reason of special circumstances charges therefor cannot appropriately be made in accordance with the provisions of subsections (2) and (3) of this section, those provisions shall not apply but the said person shall pay for the accommodation at such rate as the local authority may determine.

(7) Where accommodation is provided for a child accompanied by a person over the age of sixteen, the foregoing provisions of this section shall have effect subject to the following modifications:—

- (a) in respect of the accommodation provided for the child payment shall be made by the person by whom the child is accompanied,
- (b) the personal requirements of the child shall be treated as personal requirements of the person by whom the child is accompanied, and for the purposes of subsection (4) of this section the fact that that person is accompanying the child may be treated as special circumstances.

PART III.
—cont.

(8) Where accommodation is provided by a local authority in premises managed by another local authority, the payment therefor under this section shall be made to the authority managing the premises and not to the authority providing accommodation, but the authority managing the premises shall account for the payment to the authority providing the accommodation.

(9) Where the whole or part of a liability arising under this section is taken into account by the Board in making an assistance grant, and the person receiving the grant fails to pay any sum due from him under this section, the Board may, in lieu of issuing the whole of the grant to the person to whom it is made, issue to the local authority concerned, in or towards the satisfaction of the liability, so much of the grant as relates to that liability.

Management
of premises
in which
accommoda-
tion provided.

23.—(1) Subject to the provisions of this Part of this Act, a local authority may make rules as to the conduct of premises under their management in which accommodation is provided under this Part of this Act and as to the preservation of order in the premises.

(2) Rules under this section may provide that where by reason of any change in a person's circumstances he is no longer qualified to receive accommodation under this Part of this Act or where a person has otherwise become unsuitable therefor, he may be required by the local authority managing the premises to leave the premises in which the accommodation is provided.

(3) Rules under this section may provide for the waiving of part of the payments due under the last foregoing section where in compliance with the rules persons for whom accommodation is provided assist in the running of the premises.

Authority
liable for
provision of
accommoda-
tion.

24.—(1) The local authority liable under this Part of this Act to provide residential accommodation for any person shall subject to the following provisions of this Part of this Act be the authority in whose area the person is ordinarily resident.

(2) The local authority liable under this Part of this Act to provide temporary accommodation for any person shall be the authority in whose area the person is.

(3) Where a person in the area of a local authority—

(a) is a person with no settled residence, or

(b) not being ordinarily resident in the area of the local authority, is in urgent need of residential accommodation under this Part of this Act,

the authority shall have the like duty to provide residential accommodation for him as if he were ordinarily resident in their area.

PART III.
—cont.

(4) Subject to and in accordance with the scheme under section twenty-one of this Act, a local authority shall have power, as respects a person ordinarily resident in the area of another local authority, with the consent of that other authority to provide residential accommodation for him in any case where the authority would have a duty to provide such accommodation if he were ordinarily resident in their area.

(5) Where a person is provided with residential accommodation under this Part of this Act, he shall be deemed for the purposes of this Act to continue to be ordinarily resident in the area in which he was ordinarily resident immediately before the residential accommodation was provided for him.

25.—(1) Where the Board are satisfied that a person in the area of a local authority is in urgent need of accommodation under this Part of this Act, the Board may require the local authority to provide such accommodation for him.

Power of Board to require provision of accommodation in urgent cases.

(2) Notwithstanding anything in section twenty-three of this Act or the rules made thereunder, where accommodation is being provided for a person in compliance with a requirement under the last foregoing subsection, he shall not be required to leave the premises in which the accommodation is provided except with the consent of the Board or, where the Board refuse to give consent, with the consent of the Appeal Tribunal.

(3) Where a local authority are aggrieved by any requirement made by the Board under subsection (1) of this section, the authority may, but without prejudice to their duty to comply with the requirement in the meanwhile, appeal to the Appeal Tribunal, and on any such appeal the Tribunal may cancel or confirm the requirement of the Board.

26.—(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, a scheme under section twenty-one thereof may provide for the making by a local authority, in lieu or in supplementation of the provision of accommodation in premises managed by them or another local authority, of arrangements with a voluntary organisation managing any premises for the provision of accommodation in those premises.

Provision of accommodation in premises maintained by voluntary organisations.

(2) Any such arrangements as aforesaid shall provide for the making by the local authority to the organisation of payments in respect of the accommodation provided at such rates as may be determined by or under the arrangements.

PART III.
—cont.

(3) A person for whom accommodation is provided under any such arrangements shall, in lieu of being liable to make payment therefor in accordance with section twenty-two of this Act, refund to the local authority any payments made in respect of him under the last foregoing subsection :

Provided that where a person for whom accommodation is provided, or proposed to be provided, under any such arrangements satisfies the local authority that he is unable to make a refund at the full rate determined under that subsection, subsections (3) to (5) of section twenty-two of this Act shall, with the necessary modifications, apply as they apply where a person satisfies the local authority of his inability to pay at the standard rate as mentioned in the said subsection (3).

(4) Subsections (6), (7) and (9) of the said section twenty-two shall, with the necessary modifications, apply for the purposes of the last foregoing subsection as they apply for the purposes of the said section twenty-two.

(5) Where in any premises accommodation is being provided under subsection (1) of this section in accordance with arrangements made by any local authority, any person authorised in that behalf by the authority may at all reasonable times enter and inspect the premises.

(6) A local authority may make contributions to the funds of any voluntary organisation providing, or proposing to provide, accommodation for the like purposes as accommodation provided by a local authority under the foregoing provisions of this Part of this Act.

(7) In this section the expression " voluntary organisation " includes any association which is a housing association for the purposes of the Housing Act, 1936, or the Housing (Scotland) Acts, 1925 to 1946.

26 Geo. 5. &
1 Edw. 8.
c. 51.

Investigation
of resources
etc. by Board.

27. A local authority may refer to the Board for investigation any question arising as to the resources or other circumstances of a person applying for accommodation under this Part of this Act or for whom such accommodation is being provided.

Exchequer
contributions
to local
authorities.

28.—(1) Subject to the provisions of this section, the Minister shall make annual contributions to local authorities in respect of premises provided by them for the purposes of the foregoing provisions of this Part of this Act, being premises provided in accordance with proposals approved by the Minister and used in accordance with any conditions subject to which the proposals were approved.

(2) It shall be a condition of the making of contributions under this section in respect of any premises—

- (a) that the premises are for the time being used or available for the provision therein of accommodation under this Part of this Act; and either
- (b) that the construction of the premises, and of any other premises forming part of the same building, was begun on or after the thirty-first day of October, 1947; or
- (c) that the premises were acquired on or after that day.

(3) Annual contributions under this section in respect of any premises falling within paragraph (b) of the last foregoing subsection shall be made for such period not exceeding sixty years as the Minister may determine, being a period beginning with the completion of the premises, and shall be of the following amounts, that is to say—

- (a) in respect of each single bedroom comprised in the premises which is intended for the provision of accommodation under this Part of this Act, the sum of seven pounds ten shillings;
- (b) in respect of each other bedroom comprised in the premises which is intended for the provision of accommodation under this Part of this Act, such sum not exceeding six pounds ten shillings as may be prescribed by the Minister, multiplied by the number of persons for whose occupation the room is intended.

(4) Annual contributions under this section in respect of any premises falling within paragraph (c) of subsection (2) thereof shall be made for such period not exceeding sixty years as the Minister may determine, being a period beginning with the time when the adaptation of the premises was completed, or if no adaptation was required with the date of the acquisition of the premises, and shall be of an amount not exceeding the amount specified in paragraphs (a) and (b) of the last foregoing subsection and not exceeding two-thirds of the difference between—

- (a) the estimated average annual payments falling to be made by the local authority in question in respect of the charges on account of loans raised by the authority for the purpose of acquiring or adapting the premises, or which would have fallen to be so made if the sums expended by the local authority for the said purpose had been raised by means of loans, and
- (b) such sum as may be prescribed by the Minister multiplied by the number of persons for whose accommodation under this Part of this Act provision is made in the premises.

PART III.
—cont.

The sum to be prescribed for the purposes of paragraph (b) of this subsection shall be of an amount equal to fifty-two times such part of the sum prescribed under the proviso to subsection (3) of section twenty-two of this Act as may be determined by the Minister to represent payment in respect of the use of the premises.

(5) In the last foregoing subsection references to adaptation are references to adaptation for the provision of accommodation under this Part of this Act, and do not include references to any adaptation carried out after the premises in question have been brought into use for the provision of such accommodation.

(6) Where a local authority enters into arrangements under section twenty-six of this Act with any such association as is mentioned in subsection (7) of that section, the local authority shall be entitled to receive the like contributions (if any) under this section in respect of any premises to which the arrangements relate as if the premises had been provided by the local authority, but where a local authority receive contributions by virtue of this subsection as respects any year the local authority shall as respects that year make under subsection (6) of the said section twenty-six contributions to the association of amounts not less than the contributions under this section received by the authority.

9 & 10 Geo. 6.
c. 48.

(7) Where at any time after the coming into operation of this section the Minister proposes to make an order under section sixteen of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (which provides for the periodical review of contributions under the Housing Acts, 1936 to 1946) he shall consider the relation of the foregoing provisions of this section to the provisions as to contributions of the Housing Acts, 1936 to 1946, and an order under the said section sixteen may provide, in relation to contributions under this section or any class of such contributions, for reducing the amount of the contributions or the period for which they are payable, or both that amount and that period, to such extent, if any, as appears to the Minister to be requisite having regard to any reduction to be effected by the order of contributions under the said Acts of 1936 to 1946 and of the number of years for which those contributions are to be paid.

(8) In the application of this section to Scotland—

(a) subsection (1) shall have effect as if at the end thereof there were added the following proviso—

“ Provided that no contribution shall be payable under this subsection in respect of any premises in respect of which a contribution is payable by the Secretary of State under any other enactment ”;

- (b) for the references in subsection (3) to seven pounds ten shillings and to six pounds ten shillings there shall be substituted respectively references to eleven pounds and to nine pounds ten shillings; PART III.
—cont.
- (c) for the references to the Housing (Financial and Miscellaneous Provisions) Act, 1946, and to section sixteen thereof there shall be respectively substituted references to the Housing (Financial Provisions) Act, 1946, and to section fourteen thereof; 9 & 10 Geo. 6.
c. 54.
- (d) for the references to the Housing Acts, 1936 to 1946, there shall be substituted references to the Housing (Scotland) Acts, 1925 to 1946.

Welfare Services.

29.—(1) A local authority shall have power to make arrangements for promoting the welfare of persons to whom this section applies, that is to say persons who are blind, deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury, or congenital deformity or such other disabilities as may be prescribed by the Minister. Welfare
arrangements
for blind,
deaf, dumb
and crippled
persons, etc.

(2) In relation to persons ordinarily resident in the area of a local authority the authority shall, to such extent as the Minister may direct, be under a duty to exercise their powers under this section.

(3) The arrangements made by a local authority under this section shall be carried into effect in accordance with a scheme made thereunder.

(4) Without prejudice to the generality of the provisions of subsection (1) of this section, arrangements may be made thereunder—

- (a) for informing persons to whom arrangements under that subsection relate of the services available for them thereunder;
- (b) for giving such persons instruction in their own homes or elsewhere in methods of overcoming the effects of their disabilities;
- (c) for providing workshops where such persons may be engaged (whether under a contract of service or otherwise) in suitable work, and hostels where persons engaged in the workshops, and other persons to whom arrangements under subsection (1) of this section relate and for whom work or training is being

PART III.

—cont.

7 & 8 Geo. 6.
c. 10.

provided in pursuance of the Disabled Persons (Employment) Act, 1944, may live;

- (d) for providing persons to whom arrangements under subsection (1) of this section relate with suitable work (whether under a contract of service or otherwise) in their own homes or elsewhere;
- (e) for helping such persons in disposing of the produce of their work;
- (f) for providing such persons with recreational facilities in their own homes or elsewhere;
- (g) for compiling and maintaining classified registers of the persons to whom arrangements under subsection (1) of this section relate.

(5) A local authority may recover from persons availing themselves of any service provided under this section such charges (if any) as, having regard to the cost of the service, the authority may determine, whether generally or in the circumstances of any particular case.

(6) Nothing in the foregoing provisions of this section shall authorise or require—

- (a) the payment of money to persons to whom this section applies, other than persons for whom work is provided under arrangements made by virtue of paragraph (c) or paragraph (d) of subsection (4) of this section or who are engaged in work which they are enabled to perform in consequence of anything done in pursuance of arrangements made under this section; or
- (b) the provision of any accommodation or services required to be provided under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947.

(7) A person engaged in work in a workshop provided under paragraph (c) of subsection (4) of this section, or a person in receipt of a superannuation allowance granted on his retirement from engagement in any such workshop, shall be deemed for the purposes of this Act to continue to be ordinarily resident in the area in which he was ordinarily resident immediately before he became engaged in the work.

Voluntary organisations for disabled persons' welfare.

30.—(1) A local authority may, if the scheme under the last foregoing section so provides, employ as their agent for the purposes of that section any voluntary organisation for the time being registered in accordance with this Act

being an organisation having for its sole or principal object or among its principal objects the promotion of the welfare of persons to whom the last foregoing section applies.

PART III.
—cont.

(2) A local authority may make contributions to the funds of any such organisation as is referred to in the last foregoing subsection.

(3) Section one hundred and two of the Local Government Act, 1929, and section sixty-four of the Local Government (Scotland) Act, 1929 (which sections so far as still in force provide for the making of schemes for contribution by local authorities to voluntary associations providing services for the welfare of the blind) shall cease to have effect.

19 & 20 Geo. 5.
c. 17.
19 & 20 Geo. 5.
c. 25.

31. A local authority may make contributions to the funds of any voluntary organisation whose activities consist in or include the provision of recreation or meals for old people.

Contributions
to old people's
organisations.

Financial adjustments between Local Authorities.

32.—(1) Any expenditure which apart from this section would fall to be borne by a local authority—

(a) in the provision under this Part of this Act of accommodation for a person ordinarily resident in the area of another local authority, or

(b) in the provision under section twenty-nine of this Act of services for a person ordinarily so resident, or

(c) in providing under paragraph (a) of subsection (7) of section twenty-one of this Act for the conveyance of a person ordinarily resident as aforesaid,

shall be recoverable from the said other local authority.

Adjustments
between
authority
providing
accommoda-
tion, &c., and
authority of
area of
residence.

(2) For the purposes of paragraph (a) of the last foregoing subsection it shall be assumed that the expenditure incurred by a local authority in providing accommodation for any person is, as respects accommodation provided in premises managed by a local authority, at the rate for the time being fixed for that accommodation under subsection (2) of section twenty-two of this Act, and, as respects accommodation provided pursuant to an arrangement made under section twenty-six of this Act, at the rate referred to in subsection (2) of that section.

(3) Any question arising under this Part of this Act as to the ordinary residence of a person shall be determined by the Minister.

PART III

—cont.

Local
Authorities
for purposes
of Part III.*Local and Central Authorities.*

33.—(1) In this Part of this Act the expression “local authority” means the council of a county or county borough in England or Wales, and the council of a county or of a large burgh in Scotland:

Provided that in section thirty-one of this Act the said expression means as respects England and Wales any such council as is specified in the definition of the said expression in section sixty-four of this Act, and as respects Scotland a county, town or district council.

(2) The provisions of the Third Schedule to this Act shall have effect with respect to the establishment of committees and joint boards for the purposes of this Part of this Act.

Provisions
as to local
authority
schemes.

34.—(1) The following provisions of this section shall have effect as to schemes made under section twenty-one or twenty-nine of this Act.

(2) Subject to the provisions of this section, any such scheme shall be made by the local authority and submitted to the Minister, and shall come into force when approved by him.

(3) Not later than the date on which any such scheme is submitted to the Minister by the council of a county, that council shall send a copy of the scheme—

(a) in the case of London to the Common Council of the City of London and to the council of each metropolitan borough;

(b) in the case of any other county, to the council of each county district in the county;

and the Minister before approving the scheme shall take into consideration any representations by any such council as is referred to in paragraph (a) or (b) of this subsection made with respect to the scheme within one month from the date on which it was submitted to the Minister.

(4) The Minister may approve any such scheme submitted to him either in the form in which it is submitted or with such modifications as he thinks fit.

(5) Any scheme under either of the said sections may be varied or revoked by a subsequent scheme thereunder, and the provisions of the three last foregoing subsections shall apply to such a varying or revoking scheme.

(6) Where in the case of any local authority no scheme is for the time being in force for the exercise of their functions under section twenty-one of this Act, or for the exercise of any powers under section twenty-nine of this Act which the authority are under a duty to exercise, the Minister may require the authority, within such time as he may specify,

to submit such a scheme to him for his approval, and if the authority—

PART III.
—cont.

- (a) fail to comply with the requirement, or
- (b) submit a scheme which appears to the Minister not proper to be approved by him either as submitted or with modifications,

the Minister may himself make a scheme for the exercise of the said functions or powers by the local authority.

(7) Where it appears to the Minister that by reason of a change of circumstances it is expedient that any scheme for the exercise by a local authority of their functions under section twenty-one or twenty-nine of this Act should be varied, the Minister may require the authority, within such time as he may specify, to submit to him for his approval a scheme for varying the first-mentioned scheme in such respects as may be specified in the requirement, and if the local authority fail to comply with the requirement the Minister may himself make the varying scheme.

(8) This section shall have effect in its application to Scotland as if for subsection (3) the following subsection were substituted:—

“(3) Not later than the date on which any scheme made under section twenty-one of this Act is submitted to the Minister by the council of a county, the council shall send a copy of the scheme to the town council of each small burgh in the county and the Minister before approving the scheme shall take into consideration any representations by any such town council made with respect to the scheme within one month from the date on which it was submitted to the Minister.”

35.—(1) For the purposes of this Part of this Act the expression “the Minister” means the Minister of Health as respects England and Wales, and the Secretary of State as respects Scotland. Central Authority for purposes of Part III.

(2) Subject to the provisions of schemes under this Part of this Act, local authorities shall exercise their functions under this Part of this Act (including any discretion conferred on them thereunder) under the general guidance of the Minister, and in accordance with the provisions of any regulations of the Minister made for the purposes of this subsection.

(3) Without prejudice to the generality of the last foregoing subsection, regulations thereunder—

- (a) may provide for conferring on officers of the Minister authorised under the regulations such powers of inspection as may be prescribed in relation to the exercise of functions under this Part of this Act by or by arrangement with or on behalf of local authorities;

PART III.
—cont.

- (b) may prescribe requirements as to the provision to be made in rules for the conduct of, and preservation of order in, premises in which accommodation is provided under this Part of this Act by local authorities;
- (c) may make provision with respect to the qualifications of officers employed by local authorities for the purposes of this Part of this Act or by voluntary organisations acting under arrangements with or on behalf of local authorities for those purposes.

Default powers
of Minister.

36.—(1) Where the Minister is of opinion, whether on representations made to him or otherwise, that a local authority have failed to discharge any of their functions under this Part of this Act, or have in the discharge thereof failed to comply with any regulations relating thereto, he may after such inquiry as he may think fit make an order declaring the authority to be in default.

(2) An order under the last foregoing subsection shall direct the authority, 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 specified in the order, then without prejudice to any other means of enforcing the order the Minister may make an order transferring to himself such of the functions of the authority as he thinks fit.

(3) Any expenses certified by the Minister to have been incurred by him in discharging functions transferred to him under this section shall on demand be paid to him by the authority from which the functions were transferred.

(4) An authority shall have the like power of raising money required for paying expenses certified by the Minister as aforesaid as they have of raising money for paying expenses incurred directly by them, and the payment of any expenses certified as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which the authority may borrow money in accordance with the statutory provisions relating to borrowing by that authority.

(5) An order under this section may contain such incidental or supplemental provisions as appear to the Minister to be necessary or expedient, including provision for the transfer to the Minister of property and liabilities of the authority in default.

(6) Where any such order is varied or revoked by a subsequent order, the revoking order or a subsequent order may

make provision for the re-transfer to the authority in default of any property or liabilities transferred from that authority to the Minister under the first-mentioned order and for the transfer to that authority of any property or liabilities acquired or incurred by the Minister in discharging any of the functions transferred to him.

PART III.
—cont.

PART IV.

GENERAL AND SUPPLEMENTARY.

Registration etc. of homes for disabled persons and the aged and charities for disabled persons.

37.—(1) If any person carries on a disabled persons' or old persons' home without being registered under this section in respect thereof, he shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine.

Registration of disabled persons' or old persons' homes.

(2) An application for registration under this section shall be made to the registration authority, that is to say the council of the county, county borough or large burgh in the area of which the home is situated, and shall be accompanied by a fee of five shillings.

(3) Subject to the provisions of this section the registration authority shall, on receipt of an application under the last foregoing subsection, register the applicant in respect of the home named in the application and issue to him a certificate of registration:

Provided that the authority may by order refuse to register the applicant if they are satisfied—

- (a) that he or any person employed or proposed to be employed by him in the management of the home or any part thereof is not a fit person, whether by reason of age or otherwise, to carry on or to be so employed at a home of such a description as the home named in the application; or
- (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used in connection therewith are not fit to be used for a home of such a description as aforesaid; or
- (c) that the way in which it is proposed to conduct the home is such as not to provide services or facilities reasonably required by persons resorting to such a home.

PART IV.
—cont.

(4) The registration authority may by order at any time cancel the registration of a person in respect of a home on any ground which would entitle them to refuse an application for the registration of that person in respect of that home or on the ground that that person has been convicted of an offence against this section or against regulations under this Part of this Act relating to the conduct of disabled persons' or old persons' homes, or on the ground that any other person has been convicted of such an offence in respect of that home.

(5) The certificate of registration under this section issued in respect of any home shall be kept affixed in a conspicuous place in the home; and if default is made in complying with this subsection the person carrying on the home shall be liable on summary conviction to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

(6) Notwithstanding anything in subsection (1) of this section, where the person registered under this section in respect of a home dies his executor or his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the registration authority may sanction, carry on the home without being registered in respect thereof.

(7) Where an offence against this section or any regulations under this Part of this Act relating to disabled persons' or old persons' homes 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.

(8) The registers kept for the purposes of this section shall be available for inspection at all reasonable times, and a person inspecting any such register shall be entitled to make copies of entries therein on payment of such fee (if any), not exceeding one shilling for each entry, as the registration authority may determine.

(9) In this Act the expression "disabled persons' or old persons' home" means any establishment the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for persons to

whom section twenty-nine of this Act applies or for the aged or for both :

PART IV.
—cont.

Provided that the said expression does not include—

- (a) any hospital maintained in pursuance of an Act of Parliament,
- (b) any institution for persons of unsound mind within the meaning of the Lunacy and Mental Treatment Acts, 1890 to 1930 or any mental hospital within the meaning of the Lunacy (Scotland) Acts, 1857 to 1913,
- (c) any institution, house or home certified or approved under the Mental Deficiency Acts, 1913 to 1927 or the Mental Deficiency (Scotland) Acts, 1913 and 1940,
- (d) any nursing home as defined in Part VI of the Public Health Act, 1936, or the Nursing Homes Registration (Scotland) Act, 1938, 26 Geo. 5. &
1 Edw. 8. c. 49.
1 & 2 Geo. 6.
c. 73.
- (e) any voluntary home as defined in Part V of the Children and Young Persons Act, 1933, or Part VI of the Children and Young Persons (Scotland) Act, 1937, 23 & 24 Geo. 5.
c. 12.
1 Edw. 8. &
1 Geo. 6. c. 37.
- (f) any other premises being premises managed by a Government department or local authority, the Scottish Special Housing Association, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter, or
- (g) any existing establishment exempted from the operation of this section by or under regulations of the Minister of Health made after consultation with the Charity Commissioners, or as respects Scotland by or under regulations made by the Secretary of State.

In the last foregoing paragraph the expression " existing establishment " means an establishment which was being carried on immediately before the coming into operation of this section; but no establishment so carried on shall be exempted under that paragraph as respects any premises in which it was not being carried on immediately before the coming into operation of this section.

38.—(1) Not less than fourteen days before making under the last foregoing section an order refusing an application for registration or an order cancelling any registration, the registration authority shall send by post to the applicant or to the person registered, as the case may be, notice of their intention to make such an order. Procedure
and right of
appeal where
registration
refused or
cancelled.

(2) Every such notice shall state the grounds on which the authority intend to make the order and shall contain an intimation that if within fourteen days after the receipt of the

PART IV.
—cont.

notice the applicant or person registered, as the case may be, informs the authority in writing of his desire to show cause, in person or by a representative, why the order should not be made, the authority will before making the order afford him an opportunity so to do.

(3) If the registration authority, after giving the applicant or person registered, as the case may be, an opportunity of being heard by them, decide to refuse the application for registration, or to cancel the registration, they shall make an order to that effect and shall send a copy of the order by post to the applicant or person registered, as the case may be.

(4) A person aggrieved by an order refusing an application for registration under the last foregoing section or cancelling any registration thereunder may appeal to a court of summary jurisdiction having jurisdiction in the place where the home in question is situated; and the cancellation under the last foregoing section of any registration shall not take effect until the expiration of the time within which an appeal may be brought under this subsection or, where such an appeal is brought, before the determination of the appeal.

(5) Sections three hundred to three hundred and two of the Public Health Act, 1936 (which relate to appeals) shall apply for the purposes of this section as if this and the last foregoing section were contained in that Act and that Act extended to London.

(6) In the application of this section to Scotland, subsection (5) shall be omitted, and any appeal against an order under subsection (4) shall be brought within twenty-one days from the date of the order.

Inspection of disabled persons' and old persons' homes.

39.—(1) Any person authorised in that behalf by the Minister of Health, or as respects Scotland by the Secretary of State, may at all reasonable times enter and inspect any premises which are used, or which that person has reasonable cause to believe to be used, for the purposes of a disabled persons' or old persons' home.

(2) Any person authorised in that behalf by the registration authority may at all reasonable times enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, as aforesaid.

Supplementary provisions as to regulation of disabled persons' or old persons' homes.

40.—(1) The Minister of Health, or as respects Scotland the Secretary of State, may make regulations as to the conduct of disabled persons' or old persons' homes, and in particular—

(a) for empowering the registration authority to limit the number of persons or persons of any description who

may be received into any such home and for enabling registration of any such home to be made subject to the condition that persons shall not be received therein in excess of the number fixed for the home in accordance with the regulations;

(b) as to the facilities and services to be provided in such homes.

(2) The registers to be kept by registration authorities for the purposes of section thirty-seven of this Act shall be in such form, and contain such particulars, as may be provided by regulations under this section, and such regulations may make provision as to the information to be supplied on any application for registration under the said section thirty-seven.

(3) Regulations under this section may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations; and any person guilty of an offence against regulations under this section shall be liable on summary conviction to a fine not exceeding five pounds or, in the case of a second or subsequent offence, to a fine not exceeding twenty pounds.

41.—(1) The War Charities Act, 1940, shall, subject to the provisions of this section, have effect as if throughout that Act references to a war charity included references to any charity for disabled persons, that is to say, any fund, institution, association or undertaking, whether established before or after the passing of this Act, having for its sole or principal object or among its principal objects the promotion of the welfare of persons to whom section twenty-nine of this Act applies.

Registration
of charities for
disabled
persons.
3 & 4 Geo. 6.
c. 31.

(2) In the application of the said Act of 1940 to charities for disabled persons, the provisions of that Act shall have effect subject to the following provisions of this subsection:—

- (a) the registration authorities shall be the councils of counties, county boroughs and large burghs;
- (b) in relation to charities not being war charities as defined in the said Act of 1940 as originally enacted, subsection (3) of section one of that Act shall be amended by the substitution for the reference to the passing of that Act of a reference to the coming into operation of this section;
- (c) notwithstanding anything in subsection (1) of section two of the said Act of 1940, the registration authority may refuse to register a charity if they are satisfied that its objects are adequately attained by a charity registered in accordance with this section;

PART IV.
—cont.

(d) regulations made by the Charity Commissioners under section four of the said Act of 1940 shall be subject to the approval of the Minister of Health instead of the Secretary of State;

(e) paragraph (e) of subsection (1) of the said section four (under which regulations may require appeals and advertisements to state that a charity is registered under the said Act of 1940) shall have effect as if for the words "under this Act" there were substituted the words "in accordance with the National Assistance Act, 1948".

(3) Regulations made under section four of the said Act of 1940 shall provide, in the case of a charity for disabled persons which immediately before the coming into operation of this section was registered under the Blind Persons Act, 1920, or the War Charities Act, 1940, for the registration to have effect as registration in accordance with this section, and shall make such consequential provision as may be necessary for that purpose.

(4) In section two of the Finance (No. 2) Act, 1945 (which provides for exemption from purchase tax on wireless receivers belonging to charities registered under section three of the Blind Persons Act, 1920) for the words "under section three of the Blind Persons Act, 1920" there shall be substituted the words "in accordance with section forty-one of the National Assistance Act, 1948, or any corresponding enactment of the Parliament of Northern Ireland."

Recovery of Expenses.

42.—(1) For the purposes of this Act—

(a) a man shall be liable to maintain his wife and his children, and

(b) a woman shall be liable to maintain her husband and her children.

(2) The reference in paragraph (a) of the last foregoing subsection to a man's children includes a reference to children of whom he has been adjudged to be the putative father, and the reference in paragraph (b) of that subsection to a woman's children includes a reference to her illegitimate children.

(3) In the application of subsection (2) of this section to Scotland, for the reference to children of whom a man has been adjudged to be the putative father there shall be substituted a reference to children his paternity of whom has been admitted or otherwise established.

Liability to
maintain wife
or husband,
and children.

10 & 11 Geo. 5.
c. 49.

9 & 10 Geo. 6.
c. 13.

43.—(1) Where assistance is given or applied for by reference to the requirements of any person (in this section referred to as a person assisted), the Board or the local authority concerned may make a complaint to the court against any other person who for the purposes of this Act is liable to maintain the person assisted.

PART IV.
—cont.

Recovery of
cost of
assistance
from persons
liable for
maintenance.

(2) On a complaint under this section the court shall have regard to all the circumstances and in particular to the resources of the defendant, and may order the defendant to pay such sum, weekly or otherwise, as the court may consider appropriate.

(3) For the purposes of the application of the last foregoing subsection to payments in respect of assistance given before the complaint was made, a person shall not be treated as having at the time when the complaint is heard any greater resources than he had at the time when the assistance was given.

(4) In this section the expression "assistance" means an assistance grant, assistance in kind or assistance given under section ten of this Act (hereinafter referred to as "assistance under Part II of this Act"), or the provision of accommodation under Part III of this Act (hereinafter referred to as "assistance under Part III of this Act"); and the expression "the court" means a court of summary jurisdiction having jurisdiction in the place where the assistance was given or applied for.

(5) Payments under subsection (2) of this section shall be made—

- (a) to the Board or the local authority concerned, in respect of the cost of assistance, whether given before or after the making of the order, or
- (b) to the applicant for assistance or any other person being a person assisted, or
- (c) to such other person as appears to the court expedient in the interests of the person assisted,

or as to part in one such manner and as to part in another, as may be provided by the order.

(6) The payments to be made to the Board or a local authority under this section shall (irrespective of the recipient thereof) be applied as follows, that is to say—

- (a) payments in respect of any period during which the person assisted was in receipt of assistance both under Part II of this Act and also under Part III thereof shall inure for the benefit of the Board up to an amount equal to the cost of the assistance under Part II of this Act, and the balance, if any, shall inure for the benefit of the local authority giving the assistance under Part III of this Act,

PART IV.
—cont.

- (b) payments in respect of any other period shall inure for the benefit of the Board or local authority giving assistance,

and such adjustments shall be made between the Board and local authorities as may be requisite for giving effect to the foregoing provisions of this subsection.

Affiliation
orders.

44.—(1) The following provisions of this section shall have effect where—

- (a) assistance is given under Part II of this Act by reference to the requirements of an illegitimate child, or
(b) accommodation is provided for an illegitimate child by, or by arrangement with, a local authority under Part III of this Act,

and the provisions of the last foregoing section shall not apply in relation to the father of the child.

(2) If no affiliation order is in force, the Board or local authority may within three years from the time when the assistance was given or accommodation provided make application to a court of summary jurisdiction having jurisdiction in the place where the mother of the child resides for a summons to be served under section three of the Bastardy Laws Amendment Act, 1872.

35 & 36 Vict.
c. 65.

(3) In any proceedings on an application under the last foregoing subsection the court shall hear such evidence as the Board or local authority may produce, in addition to the evidence required to be heard by section four of the said Act of 1872, and shall in all other respects, but subject to the provisions of the next following subsection, proceed as on an application made by the mother under the said section three.

(4) An order under section four of the said Act of 1872 made on an application under subsection (2) of this section may be made so as to provide that the payments, or a part of the payments, to be made thereunder shall, in lieu of being made to the mother or a person appointed to have the custody of the child, be made to the Board or local authority or to such other person as the court may direct.

(5) On an application by the Board or local authority in any proceedings under the said section three brought by the mother of the child an order under the said section four may be made so as to provide as aforesaid.

(6) Any order under the said section four, whether made before or after the commencement of this Act, may on the application of the Board or local authority be varied so as to provide as aforesaid; and any order under the said section four which provides as aforesaid may on the application of

the mother of the child be varied so as to provide that the payments thereunder shall be made to the mother or a person appointed to have the custody of the child.

PART IV.
—cont.

(7) In the application of this section to Scotland, subsection (1) shall have effect as if all the words after " Part III of this Act " were omitted and the following provisions shall have effect in substitution for the five last foregoing subsections:—

(a) the Board or the local authority shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child;

(b) where in any action of affiliation and aliment in respect of the child, whether at the instance of the Board or the local authority under the last foregoing paragraph or at the instance of the mother, the court grants or has granted decree against any person for payment of aliment for the child, the court may, at the time of granting the decree or at any subsequent time, on the application of the Board or the local authority, order that the sums due under the decree or any part thereof shall in lieu of being paid to the mother of the child be paid to the Board or the local authority or such other person as the court may direct;

(c) the Board, or local authority or other person in whose favour any such order as aforesaid is made shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act, 1882, as if the decree were a decree in favour of the Board or authority or person. 45 & 46 Vict.
C. 42.

(8) Subsection (6) of the last foregoing section shall apply to payments recovered by the Board or local authority under an order made in pursuance of subsections (4) to (7) of this section as it applies to payments recovered by the Board or local authority under that section.

(9) The Secretary of State may issue such new or altered forms of proceedings as he may deem necessary or expedient for giving effect to the foregoing provisions of this section, so far as they apply to England and Wales.

45.—(1) If, whether fraudulently or otherwise, any person misrepresents or fails to disclose any material fact, and in consequence of the misrepresentation or failure— Recovery in
cases of
misrepresenta-
tion or non-
disclosure.

(a) the Board or a local authority incur any expenditure under Part II or Part III of this Act, or

PART IV.
—cont.

(b) any sum recoverable under this Act by the Board or a local authority is not recovered, the Board or authority shall be entitled to recover the amount thereof from the said person.

(2) If any question arises, whether in or in connection with any legal proceedings or otherwise, as to the amount which the Board are entitled in any case to recover under the last foregoing subsection, the question shall be referred to the Appeal Tribunal.

(3) On any reference under the last foregoing subsection a certificate signed by the clerk of the Appeal Tribunal setting forth the decision of the Tribunal upon the question referred shall be conclusive evidence of the amount recoverable under subsection (1) of this section.

(4) For the purposes of this section, any certificate purporting to be signed by the clerk of the Appeal Tribunal shall be deemed to be so signed unless the contrary is proved.

Miscellaneous.

Amendments
of Old Age
Pensions Act,
1936.

46.—(1) In calculating the means of a person for the purposes of the Old Age Pensions Act, 1936, no account shall be taken—

(a) of any assistance grant, or

(b) of the value to that person of accommodation provided by, or by arrangement with, a local authority under Part III of this Act.

(2) Regulations under section twelve of the said Act of 1936 may provide that where a person is undergoing medical or other treatment as an in-patient in a hospital or similar institution no account shall be taken, in calculating his means for the purposes of the First Schedule to that Act, of the value to him of the accommodation, maintenance and services provided in the hospital or institution, but that his pension under that Act shall be adjusted to such extent as may be specified in the regulations.

(3) All such claims for old age pensions and questions relating thereto as are mentioned in subsection (1) of section eight of the said Act of 1936 shall be decided by the Board, subject however to the right of a person aggrieved by a decision of the Board to refer the decision to the Appeal Tribunal; and accordingly for the words in the said subsection (1) from "shall be considered and determined as follows" to the end of the subsection there shall be substituted—

"shall be decided by the National Assistance Board.

(1A) Any person aggrieved by a decision of the Board under the last foregoing subsection may refer the claim or question to which the decision relates for decision by the Appeal Tribunal constituted under the National Assistance Act, 1948."

PART IV.
—cont.

(4) The said Act of 1936 shall have effect subject to the amendments specified in the Fourth Schedule to this Act, being minor amendments and amendments consequential on the foregoing provisions of this section.

47.—(1) The following provisions of this section shall have effect for the purposes of securing the necessary care and attention for persons who—

Removal to
suitable
premises of
persons in
need of care
and attention.

(a) are suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions, and

(b) are unable to devote to themselves, and are not receiving from other persons, proper care and attention.

(2) If the medical officer of health certifies in writing to the appropriate authority that he is satisfied after thorough inquiry and consideration that in the interests of any such person as aforesaid residing in the area of the authority, or for preventing injury to the health of, or serious nuisance to, other persons, it is necessary to remove any such person as aforesaid from the premises in which he is residing, the appropriate authority may apply to a court of summary jurisdiction having jurisdiction in the place where the premises are situated for an order under the next following subsection.

(3) On any such application the court may, if satisfied on oral evidence of the allegations in the certificate, and that it is expedient so to do, order the removal of the person to whom the application relates, by such officer of the appropriate authority as may be specified in the order, to a suitable hospital or other place in, or within convenient distance of, the area of the appropriate authority, and his detention and maintenance therein:

Provided that the court shall not order the removal of a person to any premises, unless either the person managing the premises has been heard in the proceedings or seven clear days' notice has been given to him of the intended application and of the time and place at which it is proposed to be made.

(4) An order under the last foregoing subsection may be made so as to authorise a person's detention for any period not exceeding three months, and the court may from time to time by order extend that period for such further period, not exceeding three months, as the court may determine.

PART IV.
—cont.

(5) An order under subsection (3) of this section may be varied by an order of the court so as to substitute for the place referred to in that subsection such other suitable place in, or within convenient distance of, the area of the appropriate authority as the court may determine, so however that the proviso to the said subsection (3) shall with the necessary modification apply to any proceedings under this subsection.

(6) At any time after the expiration of six clear weeks from the making of an order under subsection (3) or (4) of this section an application may be made to the court by or on behalf of the person in respect of whom the order was made, and on any such application the court may, if in the circumstances it appears expedient so to do, revoke the order.

(7) No application under this section shall be entertained by the court unless, seven clear days before the making of the application, notice has been given of the intended application and of the time and place at which it is proposed to be made—

- (a) where the application is for an order under subsection (3) or (4) of this section, to the person in respect of whom the application is made or to some person in charge of him;
- (b) where the application is for the revocation of such an order, to the medical officer of health.

(8) Where in pursuance of an order under this section a person is maintained neither in hospital accommodation provided by the Minister of Health under the National Health Service Act, 1946, or by the Secretary of State under the National Health Service (Scotland) Act, 1947, nor in premises where accommodation is provided by, or by arrangement with, a local authority under Part III of this Act, the cost of his maintenance shall be borne by the appropriate authority.

(9) Any expenditure incurred under the last foregoing subsection shall be recoverable from the person maintained or from any person who for the purposes of this Act is liable to maintain that person; and any expenditure incurred by virtue of this section in connection with the maintenance of a person in premises where accommodation is provided under Part III of this Act shall be recoverable in like manner as expenditure incurred in providing accommodation under the said Part III.

(10) The provisions of section twenty-seven of the National Health Service Act, 1946, and of section sixteen of the National Health Service (Scotland) Act, 1947 (which respectively require local health authorities and the Secretary of State to secure that ambulances and other means of transport are

available for the conveyance of certain persons) shall apply to the conveyance of persons in respect of whom an order is made under this section as they apply to the conveyance of the persons specified in the said sections twenty-seven and sixteen.

PART IV.
—cont.

(11) Any person who wilfully disobeys, or obstructs the execution of, an order under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.

(12) For the purposes of this section, the appropriate authorities shall be the councils of county boroughs and county districts and the authorities which are sanitary authorities for the purposes of the Public Health (London) Act, 1936, and in Scotland the councils of counties and large burghs. 26 Geo. 5 &
1 Edw. 8. c. 50.

(13) The foregoing provisions of this section shall have effect in substitution for any provisions for the like purposes contained in, or having effect under, any public general or local Act passed before the passing of this Act:

Provided that nothing in this subsection shall be construed as affecting any enactment providing for the removal to, or detention in, hospital of persons suffering from notifiable or infectious diseases.

(14) Any notice under this section may be served by post.

48.—(1) Where a person—

- (a) is admitted as a patient to any hospital, or
- (b) is admitted to accommodation provided under Part III of this Act, or
- (c) is removed to any other place under an order made under subsection (3) of the last foregoing section,

Duty of councils to provide temporary protection for property of persons admitted to hospitals etc.

and it appears to the council that there is danger of loss of, or damage to, any movable property of his by reason of his temporary or permanent inability to protect or deal with the property, and that no other suitable arrangements have been or are being made for the purposes of this subsection, it shall be the duty of the council to take reasonable steps to prevent or mitigate the loss or damage.

(2) For the purpose of discharging the said duty, the council shall have power at all reasonable times to enter any premises which immediately before the person was admitted or removed as aforesaid were his place of residence or usual place of residence, and to deal with any movable property of his in any way which is reasonably necessary to prevent or mitigate loss thereof or damage thereto.

PART IV.
—cont.

(3) A council may recover from a person admitted or removed as aforesaid, or from any person who for the purposes of this Act is liable to maintain him, any reasonable expenses incurred by the council in relation to him under the foregoing provisions of this section.

(4) In this section the expression "council" means in relation to any property the council of the county, county borough or large burgh in the area of which the property is for the time being situated.

Expenses of
council officers
acting as
Receivers.
8 Edw. 7. c. 47.

49. Where an officer of the council of a county or county borough with the permission of the council applies for appointment under section one of the Lunacy Act, 1908, to exercise the powers of management of property referred to in that section, the council may defray any expenses incurred by him in connection with the application or the exercise of the said powers, in so far as those expenses are not recoverable by him from any other source.

Burial or
cremation of
the dead.

50.—(1) It shall be the duty of every authority to which this subsection applies to cause to be buried or cremated the body of any person who has died or been found dead in their area, in any case where it appears to the authority that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the authority.

(2) The authorities to which the last foregoing subsection applies are the councils of county boroughs and county districts and the authorities which are sanitary authorities for the purposes of the Public Health (London) Act, 1936, and in Scotland county and town councils.

(3) The council of a county, county borough or large burgh may cause to be buried or cremated the body of any deceased person who immediately before his death was being provided with accommodation under Part III of this Act by, or by arrangement with, the council or was living in a hostel provided by the council under section twenty-nine of this Act.

(4) An authority may recover from the estate of the deceased person or from any person who for the purposes of this Act was liable to maintain the deceased person immediately before his death expenses incurred under subsection (1) or subsection (3) of this section and not reimbursed under the next following subsection.

(5) The provisions of subsection (5) of section twenty-two of the National Insurance Act, 1946 (which enable the Minister of National Insurance to make payments to certain authorities out of the National Insurance Fund in respect of the cost of burial or cremation of certain persons) shall apply to all authorities to which subsection (1) of this section applies.

(6) Nothing in the foregoing provisions of this section shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person; and an authority shall not cause a body to be cremated under this section where they have reason to believe that cremation would be contrary to the wishes of the deceased.

PART IV
—cont.

(7) The Burial of Drowned Persons Act, 1808, and the Burial of Drowned Persons Act, 1886, shall cease to have effect. 48 Geo. 3. c. 75.
49 & 50 Vict.
c. 20.

51.—(1) Where a person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain for the purposes of this Act, and in consequence of his refusal or neglect assistance under Part II of this Act is given to, or accommodation under Part III thereof is provided for, himself or any other person, he shall be guilty of an offence. Failure to maintain.

(2) For the purposes of this section, a person shall not be deemed to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

(3) A person guilty of an offence under this section shall be liable on summary conviction—

- (a) where the assistance was given to him, or the accommodation provided for him, to imprisonment for a term not exceeding three months;
- (b) in any other case, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine.

52.—(1) If any person—

- (a) for the purpose of obtaining, either for himself or for another person, any benefit under Part II or Part III of this Act; or
- (b) for the purpose of avoiding or reducing any liability under this Act,

False
statements.

makes any statement or representation which he knows to be false, he shall be guilty of an offence and 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.

(2) Notwithstanding anything in any enactment, proceedings for an offence under this section may be begun at any time within three months from the date on which evidence sufficient in the opinion of the Board or the local authority concerned to justify a prosecution for the offence comes to the

PART IV.
—cont.

knowledge of the Board or local authority, or within twelve months from the commission of the offence, whichever period is the longer.

(3) For the purposes of the last foregoing subsection, a certificate of the Board or of the local authority as to the date on which such evidence as aforesaid came to the knowledge of the Board or the local authority, as the case may be, shall be conclusive proof thereof.

(4) In the application of this section to Scotland, for the references to evidence sufficient to justify a prosecution there shall be substituted references to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of prosecution.

*Supplementary*The Appeal
Tribunal.

53. For the purposes of this Act, the Appeal Tribunal shall be such of the tribunals constituted in accordance with the provisions of the Fifth Schedule to this Act as under that Schedule has jurisdiction in the case in question.

Inquiries.

54. The Minister of Health, or as respects Scotland the Secretary of State, may cause such inquiries to be held as he may deem necessary or desirable for the purposes of this Act.

Provisions as
to entry and
inspection.

55.—(1) A person who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power.

(2) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

Legal
proceedings.

56.—(1) Without prejudice to any other method of recovery, any sum due under this Act to the Board or to a local authority shall be recoverable summarily as a civil debt.

(2) Notwithstanding anything in any Act, proceedings for the recovery of any sum in the manner provided by the last foregoing subsection may be brought at any time within three years after the sum became due.

(3) The council of a county or county borough may prosecute for any offence under this Act.

(4) Where the Board are a party to any proceedings under this Act before a court of summary jurisdiction, any officer of the Board authorised in that behalf by a general or special direction of the Board may appear on behalf of the Board notwithstanding that he is not of counsel or a solicitor.

(5) This section shall apply to Scotland with the omission in subsection (1) thereof of the word " summarily ", with the substitution for subsection (2) thereof of the following subsection—

" (2) Proceedings for the recovery of any such sum as aforesaid shall not be competent after the expiry of three years after the date when the sum became due." and with the omission of subsection (3) thereof.

57.—(1) The Treasury may make regulations authorising or requiring the Postmaster-General and his officers and any officers of a savings bank to make such disclosure of holdings of Government stock on the Post Office Register and National Savings Certificates and of deposits in the bank as may appear necessary for the purpose of ascertaining the war savings of a person under the provisions of the Second Schedule to this Act or any corresponding enactment of the Parliament of Northern Ireland, notwithstanding that such disclosure is prohibited by or under any Act or by the rules of the bank in question. PART IV.
—cont.
Ascertainment
of war
savings.

(2) This section shall extend to Northern Ireland.

58.—(1) The council of a county borough may be authorised by the Minister of Health to purchase compulsorily any land, whether situate within or without the area of the council, for the purpose of any of their functions under Part III of this Act, and the council of a county or large burgh in Scotland may be authorised by the Secretary of State to purchase compulsorily any land, whether situated within or outside the county or burgh, for the purpose of any of their functions under the said Part III. Acquisition
of land.

(2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to the compulsory purchase of land by the council of a county borough under this section as, by virtue of subsection (1) of section one hundred and fifty-nine of the Local Government Act, 1933, it applies to the compulsory purchase of land by a county council for the purpose of their functions under Part III of this Act; and accordingly for the purposes of the said Act of 1946 subsection (1) of this section shall be deemed to have been in force immediately before the commencement of that Act. 9 & 10 Geo. 6.
c. 49.
23 & 24 Geo. 5.
c. 51.

(3) Section two of the said Act of 1946 (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the acquisition of land for the purposes of this Act, whether by a county council or by a county borough council.

(4) 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 10 & 11 Geo. 6.
c. 42.

PART IV.
—cont.

of land under this section as if subsection (1) thereof had been in force immediately before the commencement of the said Act.

Accounts of
councils of
county
boroughs.

59.—(1) The council of every county borough shall keep accounts of the sums received and expended by them in the exercise of their functions under this Act, and those accounts shall be made up and audited in like manner as the accounts of a county council and shall be kept separately from their other accounts.

(2) The enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council.

Compensation
of displaced
officers.

60.—(1) The Minister of Health, or as respects Scotland the Secretary of State, may by regulations provide for the payment by councils of counties, county boroughs and large burghs, subject to any prescribed exceptions or conditions, of compensation—

- (a) to persons of such descriptions as may be prescribed who immediately before such date as may be prescribed in relation to the description of persons in question were employed or engaged in such full-time work as may be prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of the National Insurance Acts, 1946, the National Health Service Act, 1946, the National Health Service (Scotland) Act, 1947, or this Act; and
- (b) to persons of such descriptions as may be prescribed who, having before such date as aforesaid been employed or engaged in such full-time work as may be prescribed and being persons who would have been so employed or engaged immediately before that date but for any national service (as defined in the regulations) in which they have been engaged, lose the prospect of their re-employment or re-engagement in any such work in consequence of the passing of any of the said Acts,

in so far as provision is not made in that behalf by or under any other enactment.

(2) The Treasury may by regulations provide for the payment out of moneys provided by Parliament of compensation, subject to any prescribed exceptions or conditions, to persons employed for the purposes of pension committees established under the Old Age Pensions Act, 1936, who suffer loss of employment attributable to the passing of this Act,

being persons who are in full-time employment in service which is either wholly for the said purposes or mainly for those purposes and as to the remainder for the purposes of the council of any county, borough or urban district or of any county or town council in Scotland.

PART IV.
—cont.

(3) Regulations under either of the two last foregoing subsections may provide for the determination of questions arising under the regulations.

61.—(1) There shall be defrayed out of moneys provided by Parliament— Expenses and receipts.

- (a) the expenses of the Board incurred in giving assistance under this Act (including the defraying of travelling expenses of persons applying for or receiving assistance and other expenses of the Board incurred for purposes incidental to the giving of assistance), in the provision and management of re-establishment centres and reception centres, and in making contributions to voluntary organisations maintaining centres for purposes similar to the purposes of re-establishment centres and reception centres, and any other expenses of the Board being administrative expenses incurred under or by virtue of this Act;
- (b) the salaries and allowances of the secretary, other officers and servants of the Board and any expenses incurred under the provisions of this Act relating to payments to members of advisory committees and of the Appeal Tribunal and to persons attending proceedings before the Appeal Tribunal;
- (c) any expenses of the Minister of Health or the Secretary of State incurred under section twenty-eight or thirty-six of this Act;
- (d) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under the Old Age Pensions Act, 1936, the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947;
- (e) the administrative expenses incurred under this Act of any Government department.

(2) All receipts under this Act of the Minister of Health, the Secretary of State or the Board shall be paid into the Exchequer.

62.—(1) The transitional provisions set out in the Sixth Schedule to this Act shall have effect for the purposes of this Act. Transitional provisions, consequential adaptation of enactments and repeals.

(2) Any enactment passed before the passing of this Act which refers to or is dependent on any provision of the existing poor law or the Unemployment Assistance Act, 1934,

PART IV.
—cont.

shall have effect subject to such adaptations as may be provided by regulations of the Minister of Health, or as respects Scotland the Secretary of State, made not later than the expiration of five years from the coming into operation of this section, being adaptations appearing to him consequential on the cesser of the existing poor law or of the provisions of the said Act of 1934 and the replacement thereof by provisions of this Act or of any other Act of the present Session.

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

(4) Regulations made under subsection (2) of this section shall be of no effect unless approved by resolution of each House of Parliament.

Regulations,
rules and
orders.

63.—(1) No regulations or rules of the Board under this Act shall take effect unless confirmed by the Minister of National Insurance.

(2) Any power conferred by this Act on a Minister of the Crown or the Treasury to make or confirm regulations or rules, and the powers conferred by the following provisions of this Act on the Minister of Health and the Secretary of State to make orders, shall be exercisable by statutory instrument.

(3) Any statutory instrument for exercising a power to make or confirm regulations or rules under this Act, other than an instrument for exercising the power to make regulations under section five of this Act or under the last foregoing section, shall be subject to annulment in pursuance of resolution of either House of Parliament.

(4) Any power conferred by this Act to make an order shall, save where the context otherwise requires, be construed as including a power, exercisable in the like manner and subject to the like conditions, to vary or revoke the order.

Interpreta-
tion.

64.—(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:—

“ blind person ” means a person so blind as to be unable to perform any work for which eyesight is essential;

“ child ” means a person under the age of sixteen;

“ dependant ” has the meaning assigned to it by section seven of this Act;

“ disability ” includes mental as well as physical disability;

“ disabled persons’ or old persons’ home ” has the meaning assigned to it by section thirty-seven of this Act;

“ existing poor law ” means the enactments specified in Part I of the Seventh Schedule to this Act or, as respects Scotland, such of those enactments as apply to Scotland together with the enactments specified in Part II of that Schedule;

PART IV.
—cont.

“ functions ” includes powers and duties;

“ hospital ” has the meaning assigned to it by section seventy-nine of the National Health Service Act, 1946, or as respects Scotland by section eighty of the National Health Service (Scotland) Act, 1947;

“ large burgh ” has the same meaning as in the Local Government (Scotland) Act, 1947; 10 & 11 Geo. 6.
c. 43.

“ local authority ”, save as provided in Part III of this Act, means the council of a county, county borough, county district or metropolitan borough or the Common Council of the City of London;

“ place of employment ” has the same meaning as in section thirteen of the National Insurance Act, 1946;

“ prescribed ” means prescribed by regulations under this Act;

“ requirements ” does not include any medical, surgical, optical, aural or dental requirements;

“ trade dispute ” has the same meaning as in section thirteen of the National Insurance Act, 1946;

“ voluntary organisation ” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

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

(3) For the purposes of this Act, a person shall be deemed, according to the law in England and Wales as well as according to the law in Scotland, not to have attained the age of sixteen years until the commencement of the sixteenth anniversary of the day of his birth.

65. Subject to any express provision contained in this Act, the following provisions shall have effect for the general application thereof to Scotland:— General provisions as to application to Scotland.

(a) references to counties and the councils thereof shall be construed, in relation to counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, as references to the combined county and the joint county council;

PART IV
—cont.

- (b) a small burgh, as defined in the said Act of 1947, shall, for the purposes of any provision conferring functions on county councils and town councils of large burghs only, be deemed to be included in the county in the area of which it is situated;
- (c) for any reference to a court of summary jurisdiction there shall be substituted a reference to the sheriff;
- (d) for any reference to a complaint there shall be substituted a reference to an application, and the expression "defendant" means respondent in any such application;
- (e) the expression "local authority" means in subsection (3) of section two of this Act a county, town or district council, and elsewhere a county or town council.

Application
to Isles of
Scilly.

66. This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Minister of Health may by order direct.

Provisions as
to Northern
Ireland.

67.—(1) Any Act of the Parliament of Northern Ireland having effect for purposes similar to all or any of the purposes of this Act may repeal or alter, in its application to Northern Ireland, any such enactment as follows, that is to say—

- (a) any enactment specified in the Seventh Schedule to this Act,
- (b) any other enactment in so far as it refers to or is dependent on any provision of the law relating to the relief of the poor in Northern Ireland,

10 & 11 Geo. 5.
c. 67.

notwithstanding that the enactment was passed after the appointed day for the purposes of section six of the Government of Ireland Act, 1920, or relates to matters with respect to which that Parliament have not, apart from this subsection, power to make laws.

(2) Save as expressly provided therein, the provisions of this Act other than the last foregoing subsection shall not extend to Northern Ireland.

Short title
and
commence-
ment.

68.—(1) This Act may be cited as the National Assistance Act, 1948.

(2) This Act shall come into operation on such day as the Minister of Health, or as respects Scotland the Secretary of State, may by order appoint, and different days may be appointed in relation to different provisions of this Act.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

CONSTITUTION AND PROCEEDINGS OF NATIONAL ASSISTANCE BOARD.

1.—(1) The Board shall be a body corporate by the name of the National Assistance Board with a common seal and shall consist of a chairman, a deputy chairman, and not less than one nor more than four other members appointed by His Majesty by warrant under the Sign Manual.

(2) At least one member of the Board shall be a woman.

2. Every member of the Board shall hold and vacate office in accordance with the terms of his warrant of appointment.

3. No member of the Board shall be capable of being elected to or of sitting in the House of Commons.

4. Any person who has ceased to be a member of the Board shall be eligible for reappointment.

5. The Board may act notwithstanding any vacancy in the number of the Board.

6. There shall be paid to the several members of the Board out of the Consolidated Fund or the growing produce thereof such salaries as may be determined by the Treasury at the time of their appointment respectively, so, however, that the aggregate amount of the salaries of the members of the Board shall not exceed the sum of twelve thousand pounds per annum.

7. The procedure and quorum of the Board shall be such as the Board may from time to time determine.

8. The Board shall appoint a secretary and may appoint such other officers and such servants, and there shall be paid to them such salaries and allowances, as the Board may after consultation with the Minister of National Insurance and with the consent of the Treasury determine.

9. The functions of the Board, and of the officers and servants appointed by the Board, shall be exercised on behalf of the Crown.

10. The Board shall have power to acquire land for the purposes of their functions under this Act, and to dispose of any land held by them which is no longer required for those purposes.

11. Every document purporting to be an instrument issued by the Board and to be sealed with the seal of the Board or to be signed by the secretary of the Board or any person authorised to act in that behalf, shall be received in evidence and be deemed to be such an instrument without further proof, unless the contrary is shown.

SECOND SCHEDULE.

RESOURCES TO BE DISREGARDED.

1. In taking into account the value to any person of an interest in the dwelling-house in which he resides, any sum which might be obtained by him by selling that interest or borrowing money upon the security thereof shall be disregarded.

2.—(1) Subject to the provisions of this Schedule, any capital resources of a person not disregarded by virtue of the foregoing paragraph shall be disregarded up to the smaller of the following amounts, that is to say—

- (a) the aggregate amount of any war savings of the person in question;
- (b) three hundred and seventy-five pounds.

(2) There shall be wholly disregarded any income from capital resources which fall to be disregarded under the last foregoing sub-paragraph.

(3) The amount of the war savings of any person shall be ascertained for the purposes of this paragraph in accordance with the provisions in that behalf of this Schedule.

3. Any capital resources not disregarded by virtue of either of the foregoing paragraphs shall—

- (a) so far as their aggregate value does not exceed fifty pounds, be disregarded together with all income therefrom;
- (b) so far as their aggregate value exceeds fifty pounds but does not exceed four hundred pounds, be treated as equivalent to a weekly income of sixpence for each complete twenty-five pounds.

4. There shall be wholly disregarded—

- (a) any death grant paid to a person under the provisions of section twenty-two of the National Insurance Act, 1946;
- (b) any maternity grant to which a woman is entitled under section fourteen of the National Insurance Act, 1946.

5.—(1) Any such payment or part of a payment as is specified in the following provisions of this paragraph shall be disregarded up to the amount of one pound a week or, if the person in question is in receipt of more than one payment so specified, up to the said amount in the aggregate.

(2) The payments and parts of payments hereinbefore referred to are:—

- (a) the first ten shillings and sixpence a week of any payment of sick pay received from a friendly society or trade union;

(b) the first ten shillings and sixpence a week of any superannuation payment or superannuation payments in respect of previous service or employment from which the recipient has retired or resigned (whether payable by a former employer or not), not being a payment or payments—

(i) on account of a pension under the Old Age Pensions Act, 1936 or under or by virtue of the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, or under any enactment repealed by any of those Acts, or

(ii) on account of a retirement pension under the National Insurance Act, 1946;

(c) any payment by way of attendance allowance under section fourteen of the National Insurance Act, 1946, and any payment by way of maternity allowance under section fifteen of that Act;

(d) any of the following payments, that is to say—

(i) any payment in respect of retired pay or pension to which section sixteen of the Finance Act, 1919, applies, 9 & 10 Geo. 5. c. 32. including any payment in respect of a dependants' allowance attached to such a pension,

(ii) any payment in respect of a disablement pension awarded under the Personal Injuries (Emergency Provisions) Act, 1939, including an increase in such a pension 2 & 3 Geo. 6. c. 82. in respect of dependants,

(iii) any weekly payment by way of compensation under any enactment relating to workmen's compensation,

(iv) any payment by way of disablement benefit under section twelve of the National Insurance (Industrial Injuries) Act, 1946.

6. Where under section seven of this Act the resources of two or more persons are to be aggregated, paragraph 2 of this Schedule shall apply to the resources of each of the said persons severally and paragraphs 3 and 5 thereof shall apply to the aggregate of the resources of both or all the said persons.

7.—(1) For the purposes of this Schedule the amount of the war savings of a person shall subject to the provisions of this paragraph be taken to be the aggregate amount of assets of any description specified in the next following sub-paragraph owned by him at the relevant date, reduced by the aggregate amount of any such assets owned by him immediately before the third day of September, nineteen hundred and thirty-nine.

(2) The assets referred to in the last foregoing sub-paragraph are—

(a) Government stock held on the Post Office register issued after the second day of September, nineteen hundred and thirty-nine and acquired by the person in question by subscription at the time of issue or by inheritance;

(b) National Savings Certificates and Ulster Savings Certificates;

(c) money on loan to the Treasury without interest;

2ND SCH.
—cont.

- (d) amounts standing to the credit of any account in the Post Office Savings Bank or a Trustee Savings Bank or any other savings bank prescribed for the purposes of this Schedule.
- (3) In this paragraph the expression "the relevant date" means the earlier of the following dates, that is to say—
- (a) the date at which the resources of the person in question are being computed;
- (b) such date as His Majesty may by Order in Council determine (hereinafter in this paragraph referred to as "the determined date").
- (4) Where at any time after the determined date a person receives payment in respect of an income-tax credit, then, subject to the condition specified in sub-paragraph (6) of this paragraph, in computing his resources at any time after the making of the payment the amount of his war savings shall be taken to include, or if apart from this sub-paragraph he would not be treated as having any war savings shall be taken to be, the amount of the payment.
- (5) In computing the resources of a person after the expiration of the prescribed period beginning with the determined date, the provisions of paragraph 2 of this Schedule shall have effect in relation to any assets referred to in sub-paragraph (1) of this paragraph subject to the condition specified in the next following sub-paragraph.
- (6) The condition hereinbefore referred to is that either—
- (a) there is produced to the authority computing resources a certificate in the prescribed form certifying that within the prescribed period application was made in the prescribed manner claiming that the provisions of paragraph 2 of this Schedule should apply to the payment or assets in question,
or
- (b) the said authority are satisfied that within the said period application was made for such a certificate.
- (7) Where assets referred to in sub-paragraph (1) of this paragraph owned by a person at the relevant date were acquired with the proceeds of the realisation after the fourteenth day of August, nineteen hundred and forty, of any investments of that person, not being investments acquired by him by inheritance after the said fourteenth day of August, then in ascertaining the amount of his war savings there shall be deducted the sum applied out of the said proceeds of realisation in acquiring the said assets:

Provided that in so far as the investments realised consisted of assets of any description specified in sub-paragraph (2) of this paragraph, a deduction shall only be made under this paragraph in so far as a deduction would have been required to be made thereunder if the person in question had not realised the said assets but had continued to retain them.

8.—(1) In this Schedule—

- (a) the expression "by inheritance" means as a beneficiary under a will or intestacy or under the nomination of a deceased person;

- (b) the expression "Government stock" has the same meaning as in the Savings Bank Act, 1893; 2ND SCH.
—cont.
- (c) the expression "income-tax credit" means a payment or credit received by a person by virtue of section seven of the Finance Act, 1941 (which provides for the crediting of certain amounts of income tax), or of that section as applied or extended by any subsequent enactment; 56 & 57 Vict.
c. 69.
8 & 9 Geo. 6.
c. 24.
- (d) the expression "investment" includes any deposit or loan, being a deposit or loan bearing interest;
- (e) the expression "Trustee Savings Bank" means a bank in the United Kingdom or the Channel Islands certified under the Trustee Savings Bank Act, 1863; 26 & 27 Vict.
c. 87.
- (f) references to the amounts standing to the credit of an account in a Trustee Savings Bank include any sums received in respect of special investments;
- (g) references to the amount at any date of any Government stock or National or Ulster Savings Certificates shall be treated as references, in the case of any such stock to the amount originally subscribed therefor, and in the case of any such certificates to the amount for which those certificates could be encashed on that date.

(2) For the purposes of this Schedule a person shall be deemed, subject to the next following sub-paragraph, to own any asset if he is absolutely entitled in possession to the whole beneficial interest therein, and not otherwise.

(3) Where two or more persons are beneficially entitled in possession to any asset they shall be treated for the purposes of this Schedule as if they were each entitled in possession to the whole beneficial interest in an equal share in the asset:

Provided that if it appears to the authority computing resources that their respective beneficial interests in the asset are not equal the said persons shall be treated for the purposes of this Schedule as if they were respectively entitled in possession to the whole beneficial interest in such share in the asset as appears to the said authority to be just.

(4) References in this Schedule to the acquisition of an asset shall be construed in accordance with the two last foregoing sub-paragraphs.

(5) Sub-paragraphs (2) and (3) of this paragraph shall have effect in their application to Scotland as if the words "in possession" were omitted wherever they occur.

9. Anything to be prescribed for the purposes of this Schedule shall be prescribed by the Treasury.

THIRD SCHEDULE.

Section 33.

ADMINISTRATIVE PROVISIONS AS TO LOCAL AUTHORITIES

PART I.

Committees.

1.—(1) For the purposes of their functions under Part III of this Act every local authority shall establish a committee, and all matters relating to the discharge of any of the said functions shall stand referred to that committee.

K

3RD SCH.
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(2) Before exercising any such functions a local authority shall, unless the matter is urgent, consider a report of the committee with respect thereto.

2. A local authority may authorise a committee established in pursuance of this Schedule (hereinafter referred to as "the committee") to exercise on their behalf any of their functions under Part III of this Act except the power to borrow money or to levy or to issue a precept for a rate.

3.—(1) The committee shall be so constituted as to include persons having special experience of the matters to which the functions discharged by the committee relate, and to consist of women as well as men.

(2) At least a majority of the committee shall be members of the local authority.

4. The minutes of proceedings of the committee shall be open to the inspection of any local government elector for the area on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or extracts therefrom.

5.—(1) The committee may, subject to any restrictions imposed by the local authority, establish such sub-committees as the committee may determine, and any sub-committee established under this paragraph shall be constituted in such manner as the committee establishing it may, subject to any restrictions imposed by the local authority, determine:

Provided that—

- (i) in the case of a sub-committee established only for one or more of the following purposes, that is to say, the managing, visiting or inspecting of particular premises used for the purposes of the provision of accommodation under Part III of this Act, at least one of the members shall be a member of the local authority or of the committee;
- (ii) in the case of any other sub-committee at least a majority of the members shall be members of the local authority or of the council of a county district forming part of the area of the local authority.

(2) The committee may, subject to any restrictions imposed by the local authority, authorise any sub-committee to exercise on their behalf any functions of the committee.

6. Every person appointed to be a member of the committee or a sub-committee thereof who at the time of his appointment was a member of the local authority appointing the committee, and every person appointed to be a member of such a sub-committee who at the time of his appointment was a member of the council of a county district in the area of the said local authority, shall, upon ceasing to be a member of the local authority or council, also cease to be a member of the committee or sub-committee, unless he has been re-elected to be a member of the authority or council not later than the date of his retirement.

7.—(1) If it appears to the Minister, on the representation of a local authority, that in the interests of the efficient discharge of all or any of the authority's functions under Part III of this Act it is expedient

so to do, the Minister may direct that all matters relating to the discharge thereof shall, instead of being referred to a committee established in pursuance of this Schedule, stand referred to some other committee established by the local authority.

(2) Where such a direction has effect paragraphs 2 and 5 of this Schedule, and paragraph 6 thereof so far as it relates to sub-committees, shall apply with respect to the functions in question with the substitution for references to the committee established in pursuance of this Schedule of references to the said other committee.

8. The foregoing provisions of this Schedule shall not prevent a local authority from referring to any committee appointed by them any matter arising out of, and incidental to, their functions under Part III of this Act which, by reason that it relates also to a general service of the authority, ought in the opinion of the authority to be so referred, and the foregoing provisions of this Schedule shall not apply to any matter which is so referred.

PART II.

Joint Boards.

9.—(1) Where it appears to the Minister to be expedient in the interests of the efficiency of any services provided under Part III of this Act that a joint board should be established for the purpose of performing all or any of the functions under the said Part III of two or more local authorities, the Minister may by order constitute a joint board consisting of members appointed by those authorities and provide for the exercise by the board in lieu of the authorities of such of the said functions as may be specified in the order.

(2) An order under this paragraph shall not be made except after a local inquiry, unless all the authorities concerned have consented to the making of the order.

(3) Part I of this Schedule shall not have effect in relation to any functions of a local authority under Part III of this Act as respects any period during which those functions are being exercised by a joint board.

10. A joint board constituted for the purposes of Part III of this Act shall be a body corporate with a common seal and power to hold land without licence in mortmain.

11. An order constituting such a joint board—

- (a) may, without prejudice to the provisions of section two hundred and ninety-three of the Local Government Act, 1933, and section one hundred and ninety-six of the London Government Act, 1939 (which authorise the application of the provisions of those Acts to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent local authorities;
- (b) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and the apportionment of liabilities;

3RD SCH.
—cont.

- (c) may confer on the board the like powers for the compulsory purchase of land as are exercisable by local authorities;
- (d) may provide for the application, with such adaptations as may be specified, of any enactments relating to functions transferred to the board;
- (e) may contain such other provisions as appear to the Minister to be expedient for enabling the board to exercise their functions;
- (f) may apply to the board, with any necessary modifications and adaptations, any of the provisions of Part I of this Schedule.

PART III.

Application to Scotland.

12. The foregoing provisions of this Schedule shall in their application to Scotland have effect subject to the following modifications:—

- (a) for any reference to section two hundred and ninety-three of the Local Government Act, 1933, there shall be substituted a reference to section three hundred and sixty-three of the Local Government (Scotland) Act, 1947; and for any reference to issuing a precept for a rate there shall be substituted a reference to sending a requisition within the meaning of the last mentioned Act;
- (b) for paragraph 3 there shall be substituted the following paragraph:—
 - “ 3.—(1) At least two-thirds of the members of the committee shall be members of the local authority and any other members shall be persons who have special knowledge or experience in regard to the functions of a local authority under Part III of this Act.
 - (2) Not less than such number of the members of the committee as may be determined by the local authority shall be women.”
- (c) paragraph 5 shall have effect as if in the proviso to subparagraph (1)—
 - (i) for the words “ a majority ” there were substituted the words “ two-thirds ”; and
 - (ii) the words from “ or of the council ” to the end of the sub-paragraph were omitted;
- (d) paragraph 6 shall have effect as if the words from “ and every person ” to “ said local authority ” and the words “ or council ”, in both places where those words occur, were omitted.

13. A combination of local authorities in Scotland for the purposes of Part III of this Act may, notwithstanding anything in subsection (5) of section one hundred and twenty of the Local Government (Scotland) Act, 1947, be effected under that section.

FOURTH SCHEDULE.

Section 46.

AMENDMENTS OF 26 GEO. 5 & 1 EDW. 8. C. 31.

1.—(1) For references to the Treasury, the local pension committee, and the pension officer there shall be substituted references to the Board.

(2) For references to the central pension authority there shall be substituted references to the Appeal Tribunal.

(3) References to pension authorities shall be construed as references to the Board or the Appeal Tribunal, as the case requires.

(4) Section ten (which relates to local pension committees, the central pension authority and pension officers) shall cease to have effect.

2.—(1) In section three, in subsection (1), paragraphs (a) and (c) (which disqualify persons who are inmates of poor law institutions, criminal lunatics, and persons who are being maintained as persons of unsound mind) shall cease to have effect, and for paragraph (b) (which disqualifies persons detained in prison on conviction) there shall be substituted—

“ (b) is, except in such circumstances as may be prescribed by regulations under section twelve of this Act, undergoing penal servitude, imprisonment or detention in legal custody ”

(2) Subsections (2) and (3) of section three, and in subsection (1) the words “ subject to the provisions of this section ”, shall cease to have effect.

3. Notwithstanding anything in section six, where a woman who is entitled to an old age pension becomes, in consequence of the death of her husband, entitled to an increase in the rate thereof, pension at the increased rate shall be payable as from the date of the death or from the beginning of the period of three months ending with the date on which notice of the death is given to the Board, whichever is the later:

Provided that the Board shall not by virtue of this paragraph be required to make any payment in respect of part of a week.

4. In section nine, subsections (3) and (4) (which provide for the suspension of payments where a question of disqualification arises, and render a further claim necessary for the resumption of payments which have been discontinued or for the increase, on a change of circumstances, of a pension which has been reduced) shall cease to have effect.

5. Regulations under section twelve shall be made by the Board and confirmed by the Minister of National Insurance and, so far as they relate to the Post Office, by the Postmaster-General.

6. In section twelve paragraph (d) of subsection (1) (which relates to the constitution and proceedings of local pension committees, the use by such committees of offices of a local authority and the payment of the expenses of such committees), and in subsection (2) the words from “ and for notice ” to “ registered by them ”, shall cease to have effect.

7. Subsection (4) of section twelve (which provides for defraying expenses of the Treasury, the Minister of Health, and local pension committees) shall cease to have effect.

FIFTH SCHEDULE.

CONSTITUTION AND PROCEEDINGS OF APPEAL TRIBUNALS.

1. Each of the Tribunals referred to in section fifty-three of this Act shall consist of a chairman and two other members.

2. Each Tribunal shall have jurisdiction in respect of such district as may be assigned to them by the Board.

3.—(1) The chairman and one of the other members of every Tribunal shall be appointed by the Minister, and the other member shall be appointed by the Board from a panel of persons nominated by the Minister to represent work-people.

(2) The Minister may appoint persons to act, in the event of absence or incapacity, in the place of members of a Tribunal appointed by him.

4. The Board shall pay to the chairman or acting chairman of a Tribunal such remuneration, and to any member thereof such travelling and other allowances (including compensation for loss of remunerative time) as the Board may after consultation with the Minister and with the consent of the Treasury determine.

5. The Board shall assign to each Tribunal a clerk and such other officers and servants, and shall pay to them such salaries or fees and such allowances, as the Board may after consultation with the Minister and with the consent of the Treasury determine.

6.—(1) The Board may make rules—

- (a) as to the tenure of office of members of Tribunals;
- (b) as to the procedure of Tribunals and the procedure in connection with the bringing of matters before a Tribunal, and as to the time within which matters may be brought before Tribunals;
- (c) as to the payment by the Board to persons attending proceedings before Tribunals of travelling and other allowances (including compensation for loss of remunerative time);
- (d) for authorising proceedings notwithstanding that the members of the Tribunal are not all present;

and in any case where proceedings take place in accordance with rules made in accordance with sub-paragraph (d) of this paragraph. the Tribunal shall, notwithstanding anything in this Act, be deemed to be properly constituted, and the chairman or acting chairman shall have a second or casting vote.

(2) It is hereby declared that the power under the last foregoing sub-paragraph to make rules as to procedure includes power to make provision as to the representation of one person in any proceedings by another person.

7. In this Schedule "the Minister" means the Minister of National Insurance.

SIXTH SCHEDULE.

Section 62.

TRANSITIONAL PROVISIONS.

1. The first report of the Board under subsection (4) of section two of this Act shall include a report on the activities of the Board between the end of the period covered by the last report under subsection (4) of section thirty-five of the Unemployment Assistance Act, 1934 and the appointed day.

2.—(1) Advisory committees under subsection (3) of section thirty-five of the Unemployment Assistance Act, 1934, established immediately before the appointed day shall, unless and until the Board otherwise determine, be deemed to be advisory committees established under section three of this Act.

(2) A person holding office as chairman or other appointed member of an appeal tribunal under the said Act of 1934 immediately before the appointed day shall, until some other person is appointed in his place, be qualified without further appointment to act as chairman or other appointed member of an appeal tribunal for the purposes of this Act, and the panel of persons nominated to represent work-people under paragraph 3 of the Seventh Schedule to the said Act of 1934 shall, until a new panel is nominated, be deemed to be the panel nominated under paragraph 3 of the Fifth Schedule to this Act.

(3) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), the coming into operation of this Act shall not, save as hereinafter provided, affect—

^{52 & 53 Vict.}
c. 63.

- (a) any appeal under subsection (3) of section thirty-six of the Unemployment Assistance Act, 1934, against a decision made before the appointed day as to the applicability of that Act to any person;
- (b) any appeal under section thirty-nine of that Act or that section as applied by any subsequent enactment, against a determination made before the appointed day;
- (c) any reference under section forty-eight of that Act of a question as to the amount of any excess payment made before the appointed day; or
- (d) any reference under the Eighth Schedule to that Act, or that Schedule as applied by any subsequent enactment, of a dispute between the Board and any authority:

Provided that

- (i) in relation to any appeal under the said subsection (3) pending at the appointed day the said subsection (3) shall have effect subject to such modifications as may be prescribed by the Minister of National Insurance;
- (ii) any such appeal or reference brought after the appointed day shall be brought and determined in accordance with the provisions of this Act and rules thereunder as to appeals and references brought by virtue of this Act.

6TH SCH.
—cont.

3.—(1) Where immediately before the appointed day a person was in receipt of sums—

- (a) payable in respect of outdoor relief under the Poor Law Act, 1930, or
- (b) payable under the Blind Persons Acts, 1920 and 1938, or
- (c) receivable by him as a person undergoing treatment for pulmonary tuberculosis, or
- (d) payable by the Assistance Board under any enactment repealed by this Act,

the Board may continue payment thereof for any period not exceeding two months from the appointed day during which the said person is in need thereof, and for the purposes of this Act any payments made by virtue of this sub-paragraph shall be deemed to be assistance grants.

(2) Where assistance grants are made in respect of a person who at any time during the month ending with the appointed day was in receipt of any such sums as are mentioned in the last foregoing sub-paragraph, the Board may take into consideration the rate at which any such sums were paid to him at any time during the period of six months ending with the appointed day, and may increase the amount of the grants accordingly notwithstanding anything in Part II of this Act or regulations made thereunder.

(3) Any authority responsible for the making of payments falling within heads (a) to (c) of sub-paragraph (1) of this paragraph shall on a requisition in that behalf made by the Board not later than six months after the appointed day transfer to the Board any documents specified in the requisition which are under the control of the authority and relate to the payments.

4.—(1) Where immediately before the appointed day any premises vested in a local authority were being used for the reception or relief of casual poor persons under the provisions of the Poor Law Act, 1930, then if on the appointed day the premises remain so vested the local authority shall maintain therein, until such time as the Board may determine, a centre for the like purposes as a reception centre maintained by the Board.

(2) For the purposes of sections seventeen and eighteen of this Act, any centre maintained by a local authority under this paragraph shall be deemed to be a reception centre maintained on behalf of the Board.

5.—(1) Notwithstanding anything in Part III of this Act, a local authority may, for a period of six months from the appointed day or such longer period not exceeding twelve months therefrom as the Minister of Health may allow, exercise otherwise than in accordance with a scheme under the said Part III any functions conferred on them by the said Part III or which could be conferred on them by a scheme thereunder:

Provided that the local authority shall not exercise any function under the said Part III otherwise than in accordance with a scheme thereunder after a scheme relating to the exercise of that function has come into force.

(2) The references in subsection (6) of section twenty-nine of this Act to arrangements made by virtue of paragraph (c) or paragraph (d) of subsection (4) of that section, and to arrangements made under that section, shall be construed as including references to arrangements made under the corresponding provisions of the Blind Persons Acts, 1920 and 1938.

6.—(1) Any land which immediately before the appointed day was held by the council of a county or county borough for the purposes of any enactment repealed by this Act, or which on the appointed day vests in or thereafter is transferred to the council of a county or county borough by virtue of this Schedule, shall save as otherwise provided in this Schedule be deemed to have been appropriated for such of the purposes of this Act as the council may determine.

(2) Any right of a council of a county or county borough subsisting immediately before the appointed day to use land for the purposes of any enactment repealed by this Act shall on and after the appointed day continue to subsist as a right to use the land for such of the purposes of this Act as the council may determine, subject however to the cesser of the right in any event (other than the repeal of the said enactment) in which it would have ceased apart from this sub-paragraph.

(3) Nothing in this paragraph shall affect the provisions of the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, as to the transfer and vesting of hospitals.

(4) In this paragraph the expression "land" includes any interest in land and any easement, servitude or right in, to or over land.

7.—(1) Where immediately before the appointed day any premises being part of a workhouse were being used for hospital purposes, but the workhouse as a whole was mainly being used for other purposes, subsection (2) of section six of the Act of 1946 (which provides for the transfer to the Minister of Health of hospitals and property and liabilities connected therewith) shall not apply in relation to the premises, but—

- (a) the local authority by which the workhouse was provided shall to the satisfaction of the Minister of Health enter into arrangements with the Regional Hospital Board whereby, until the said Minister otherwise determines, the like accommodation shall be available for the provision of hospital and specialist services under the Act of 1946 as was available for hospital purposes immediately before the appointed day, and such facilities in relation to the accommodation made available shall be afforded by the local authority as may be necessary for the purposes of the Act of 1946;
- (b) the Regional Hospital Board shall make to the local authority such payments in respect of accommodation and facilities as may be agreed between the authority and the Board, or in default of agreement as may be determined by the Minister of Health.

6TH SCH.
—cont.

(2) Where immediately before the appointed day any person was by virtue of a lunacy order or a mental deficiency order detained in any such premises as are mentioned in the last foregoing sub-paragraph,—

- (a) the premises shall be deemed, until the time determined under head (a) of that sub-paragraph, to be a mental hospital or institution for defectives, as the case may be; and
- (b) the lunacy order shall have effect as if it were an order made on the appointed day under section sixteen of the Lunacy Act, 1890, for the detention of the said person in the premises.

(3) Subsection (4) of section fifty of the Act of 1946 shall not have effect.

(4) Regulations as to the transfer of officers made under section sixty-eight of the Act of 1946 shall provide for the transfer of officers and servants of local authorities who immediately before the appointed day were employed solely or mainly at or for purposes of such premises as are mentioned in sub-paragraph (1) of this paragraph to the Regional Hospital Board for the area in which the premises are situated.

(5) Any expenditure of a Regional Hospital Board under head (b) of sub-paragraph (1) of this paragraph shall be deemed for the purposes of section fifty-four of the Act of 1946 to be expenditure of the Regional Hospital Board incurred under that Act and approved as mentioned in that section.

8.—(1) Where any premises being part of a workhouse were immediately before the appointed day being used otherwise than for hospital purposes, but the workhouse as a whole was mainly being used for hospital purposes, the entirety of the workhouse shall be treated as a hospital for the purposes of the Act of 1946, and shall be transferred to and vest in the Minister of Health under that Act accordingly, and no apportionment of interests shall be made under paragraph (a) of subsection (5) of section six of that Act:

Provided that nothing in this sub-paragraph shall extend the operation of the provisions of section sixty-eight of that Act or regulations made thereunder as to the transfer of officers.

(2) Where a workhouse is transferred to and vests in the Minister under the Act of 1946, and immediately before it so vested accommodation was being used therein for the relief under the Poor Law Act, 1930, of persons not in need of reception into hospital,—

- (a) the Regional Hospital Board shall to the satisfaction of the Minister of Health enter into arrangements with the local authority by which the workhouse was provided whereby, until the Minister otherwise determines, the like accommodation shall be available for the purposes of section twenty-one of this Act as was immediately before the appointed day available for the relief of persons not in need of reception into hospital, and such facilities in relation to the accommodation shall be afforded as may be requisite for those purposes, and

- (b) the local authority shall make to the Regional Hospital Board such payments in respect of the accommodation and facilities as may be agreed between the authority and the Board or, in default of agreement, as may be determined by the Minister of Health.

6TH SCH.
—cont.

(3) Where any part of the accommodation first referred to in the last foregoing sub-paragraph was being used immediately before the appointed day for the reception or relief of casual poor persons, then, if the Minister of Health after consultation with the National Assistance Board so directs, that sub-paragraph shall apply separately in relation to that part of the accommodation, and shall so apply with the substitution for the reference to section twenty-one of this Act of a reference to section seventeen thereof; and where the Minister gives a direction under this sub-paragraph—

- (a) he shall not determine the arrangements made in pursuance of the direction except after consultation with the National Assistance Board;
- (b) so long as those arrangements continue in force the local authority shall maintain in the accommodation provided in pursuance of the arrangements a centre for the like purposes as a reception centre maintained by the National Assistance Board, and the centre shall be deemed to be provided by the local authority in pursuance of a requirement under subsection (2) of section seventeen of this Act;
- (c) expenditure incurred by the local authority in making payments in accordance with head (b) of sub-paragraph (2) of this paragraph shall be deemed for the purposes of subsection (3) of the said section seventeen to have been incurred with the approval of the National Assistance Board.

(4) Accommodation provided under section twenty-one of this Act in pursuance of arrangements under this paragraph shall be deemed to be provided by the local authority in premises managed by them.

9.—(1) In this and the two last foregoing paragraphs the following expressions have the meanings hereby assigned to them respectively:—

“hospital purposes”, in relation to any premises, means purposes such that if the premises were a separate institution they would be a hospital as defined by section seventy-nine of the Act of 1946;

“lunacy order” and “mental hospital” mean respectively an order under the Lunacy and Mental Treatment Acts, 1890 to 1930, and a mental hospital for the purposes of those Acts;

“mental deficiency order” and “institution for defectives” mean respectively an order under the Mental Deficiency Acts, 1913 to 1938, and an institution for defectives for the purposes of those Acts;

“the Act of 1946” means the National Health Service Act, 1946;

“workhouse” means a workhouse, as defined in the Poor Law Act, 1930, provided by a local authority.

6TH SCH.
—cont.

(2) The question whether any premises fall within sub-paragraph (1) of paragraph 7 or sub-paragraph (1) of paragraph 8 of this Schedule shall be determined by agreement between the local authority and the Regional Hospital Board, or in default of agreement by the Minister of Health.

(3) In the application of this and the two last foregoing paragraphs to Scotland—

(a) for sub-paragraph (2) of paragraph 7 there shall be substituted the following sub-paragraph—

“(2) Where immediately before the appointed day any person was, by virtue of a sanction of the General Board of Control for Scotland under section four of the Lunacy (Scotland) Act, 1862, or of a removal or transfer authorised under section sixteen of the said Act, detained in the lunatic ward of a poorhouse within the meaning of the said Act, and the poorhouse as a whole was mainly being used for purposes other than hospital purposes,

(i) the ward shall be deemed, until the time determined under head (a) of that sub-paragraph to be a mental hospital for the purposes of the Lunacy (Scotland) Acts, 1857 to 1913; and

(ii) the sanction shall have effect as if it were an order granted on the appointed day by the sheriff under section fourteen of the aforesaid Act of 1862 for the reception into and detention in the premises of the said person;”

(b) paragraph 9 shall have effect as if at the end of the definition in sub-paragraph (1) of the expression “hospital purposes” there were added the following words “and includes the purposes for which the lunatic ward of a poorhouse licensed under section three of the Lunacy (Scotland) Act, 1862, is used”;

(c) for references to the Act of 1946 and to sections sixty-eight and seventy-nine thereof there shall be respectively substituted references to the National Health Service (Scotland) Act, 1947, and to sections sixty-seven and eighty thereof.

10.—(1) Where immediately before the appointed day a person was receiving relief in a workhouse within the meaning of the Poor Law Act, 1930, then, if he is in need of accommodation under Part III of this Act, the authority liable to provide the accommodation shall, so long as the need continues, be the authority by which the relief was given.

(2) If immediately before the appointed day the cost of the relief referred to in the last foregoing sub-paragraph was recoverable from another authority, the authority giving relief shall have the like right to recover from the other authority the cost of any accommodation provided by virtue only of the last foregoing sub-paragraph.

(3) In respect of accommodation provided as aforesaid an authority shall be entitled to recover cost from another authority in accordance with the last foregoing sub-paragraph and not otherwise, but nothing in this paragraph shall affect any right of recovery from any other person.

6TH SCH
—cont.

(4) References in the foregoing provisions of this paragraph to the authority giving relief shall be construed, where the authority to whom application for relief was made and the authority managing the workhouse were not the same, as references to the authority to whom the application was made.

11. Where immediately before the appointed day a person was being maintained, in pursuance of an arrangement made by an authority in the exercise of functions under the Poor Law Act, 1930, in premises not managed by a local authority, that arrangement shall for the purposes of section twenty-six of this Act be deemed, so far as it relates to the said person and until he ceases to be maintained in the premises, to be an arrangement under subsection (1) thereof, notwithstanding that the premises are not managed by a voluntary organisation.

12. Any property, right or liability which immediately before the appointed day was vested in a joint committee established by an order under section three of the Poor Law Act, 1930 (which provides for the combination by an order of the Minister of Health, for the purposes named in the order, of the areas of councils of counties or county boroughs) shall on the appointed day vest jointly in the councils the areas of which were combined by virtue and for the purposes of the order.

13. Section one hundred and fifty-one of the Local Government Act, 1933 (which provides for the adjustment, by agreement or otherwise, of certain matters between public bodies affected by an alteration of areas or authorities made by an order under Part VI of that Act) shall apply to councils of counties or county boroughs affected by the provisions of this Schedule as to the vesting on the appointed day of any property, right or liability as it applies to public bodies affected by such an alteration as aforesaid, with the substitution for the reference to the alteration made by an order under Part VI of that Act of a reference to the said provisions of this Schedule.

14. Where immediately before the appointed day the fact that a person was living in any place was to be disregarded in determining, for the purposes of any enactment repealed by this Act, his residence or ordinary residence, that fact shall be disregarded in determining his ordinary residence for the purposes of this Act.

15. Where any right of a local authority to recover any sum from another local authority depends upon the determination under the Poor Law Act, 1930, of any question as to settlement, removal or chargeability of any person pending at the appointed day, section one hundred and five of the said Act of 1930 (which provides for the recovery of the cost of relief by one council from another) shall continue to apply, but as if for proviso (b) to subsection (1) thereof

6TH SCH.
—cont.

(which excludes the provisions of that section where a removal order is refused on grounds of irremovability) there were substituted—

“(b) this section shall not apply where the person whose settlement is in question has acquired a status of irremovability in the area of the local authority seeking to recover the cost of his relief.”

16. Where on the appointed day a local authority in Scotland hold as trustees any property wholly or mainly for the use or benefit of the poor (within the meaning of section fifty-two of the Poor Law (Scotland) Act, 1845) of the whole or any part of their area, they shall hold and apply the property or the income thereof to such charitable purposes for the use and benefit of the persons for whom it is the duty of the local authority to make provision or arrangements under Part III of this Act as the authority may think fit.

17.—(1) Where under section three of the Blind Persons Act, 1938, a council has recovered from another council (being a local authority within the meaning of Part III of this Act) expenditure in respect of assistance for any person provided during an appropriate quinquennial period as defined in the said section three, being a period current at the appointed day, subsection (5) of section twenty-nine and subsection (1) of section thirty-two of this Act shall not apply in relation to any expenditure which is specifically attributable to the provision, before the expiration of the said quinquennial period, of services provided under the said section twenty-nine for the said person as a blind person, but the local authority by which those services are so provided shall be entitled to recover the amount of any such expenditure from the council from which the expenditure under the said section three was recovered as aforesaid.

(2) Notwithstanding the repeal of the said Act of 1938 effected by this Act, subsection (2) of the said section three (which relates to the determination of disputes) shall apply in relation to this paragraph as it applies in relation to the said section three.

18. Any appeal against a decision of a local pension committee under the Old Age Pensions Act, 1936, given before the appointed day shall be decided, and the decision shall have effect, as if this Act had not been passed.

19.—(1) Notwithstanding anything in subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which contains savings for vested rights and liabilities on the repeal of enactments), a person shall not by virtue of any enactment repealed by this Act be under any liability (whether under an order of the court or otherwise) as respects any period after the appointed day to maintain any person whom he is not liable to maintain for the purposes of this Act.

(2) Except as otherwise provided by the last foregoing sub-paragraph, any order of court or agreement made before the appointed day by virtue of which payments are required to be made to a local authority in respect of the relief or maintenance of any person while he

remains chargeable to that authority under the existing poor law shall have effect, so long as accommodation is provided for him under Part III of this Act by that authority or he is in receipt of assistance under Part II of this Act, as if he were so chargeable.

(3) Where a local authority recover payments from any person under any such order or agreement as is mentioned in the last foregoing sub-paragraph, subsection (6) of section forty-three of this Act shall apply to payments recovered in respect of any period after the appointed day as it applies to payments recovered by the local authority under the said section forty-three.

20.—(1) For the purposes of any provision of this Schedule the expression “the appointed day” means such day appointed by the order under subsection (2) of section sixty-eight of this Act as may be specified in the order in relation to the provision in question.

(2) References in this Schedule to a workhouse within the meaning of the Poor Law Act, 1930, include, in relation to London, references to an asylum provided under section one hundred and twenty-three of that Act.

21. The following provisions shall have effect for the purpose of the application of this Schedule to Scotland:—

- (a) for references to the Minister of Health there shall be substituted references to the Secretary of State;
- (b) for references to a county borough there shall be substituted references to a large burgh;
- (c) for references to the Poor Law Act, 1930, there shall be substituted references to the enactments relating to the relief of the poor in Scotland, and the expression “workhouse” means poorhouse;
- (d) any reference to the local authority by which a poorhouse was provided shall include a reference to a combination of local authorities;
- (e) paragraphs 12, 13 and 15 shall not apply.

SEVENTH SCHEDULE.

ENACTMENTS REPEALED.

PART I.

The existing poor law.

Session and Chapter.	Short Title.	Extent of Repeal.
5 Geo. 1. c. 8.	The Poor Relief (Deserted Wives and Children) Act, 1718.	The whole Act.
5 Geo. 4. c. 83.	The Vagrancy Act, 1824 ...	In section three, the words from the beginning to "settled in such other parish, township, or place"; in section four, the words "every person running away and leaving his wife, or his or her child or children, chargeable, or whereby she or they or any of them shall become chargeable, to any parish, township, or place".
5 & 6 Vict. c. 57	The Poor Law Amendment Act, 1842.	The whole Act.
7 & 8 Vict. c. 101.	The Poor Law Amendment Act, 1844.	Sections six and seven; in section eight the words from the beginning to "misdemeanour"; section sixty-three.
8 & 9 Vict. c. 117.	The Poor Removal Act, 1845.	The whole Act.
10 & 11 Vict. c. 33.	The Poor Removal Act, 1847.	The whole Act.
12 & 13 Vict. c. 103.	The Poor Law Amendment Act, 1849.	The whole Act.
20 & 21 Vict. c. 13.	The Workhouse Sites Act, 1857.	The whole Act.
20 & 21 Vict. c. 81.	The Burial Act, 1857 ...	Section six, so far as it authorises the consecration and use of new burial grounds.
21 & 25 Vict. c. 76.	The Poor Removal (No. 2) Act, 1861.	The whole Act.
25 & 26 Vict. c. 113.	The Poor Removal Act, 1862.	The whole Act.
26 & 27 Vict. c. 89.	The Poor Removal Act, 1863.	The whole Act.

7TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	Sections nineteen, twenty-four and forty-two.
63 & 64 Vict. c. 23.	The Poor Removal Act, 1900.	The whole Act.
20 & 21 Geo. 5. c. 17.	The Poor Law Act, 1930 ...	The whole Act.
24 & 25 Geo. 5. c. 59.	The Poor Law Act, 1934 ...	The whole Act.
1 & 2 Geo. 6. c. 23.	The Poor Law (Amendment) Act, 1938.	The whole Act.

PART II.

The existing poor law in Scotland.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Vict. c. 83.	The Poor Law (Scotland) Act, 1845.	The whole Act.
19 & 20 Vict. c. 117.	The Poor Law (Scotland) Act, 1856.	The whole Act.
49 & 50 Vict. c. 51.	The Poor Law Loans and Relief (Scotland) Act, 1886.	The whole Act.
61 & 62 Vict. c. 21.	The Poor Law (Scotland) Act, 1898.	The whole Act.
11 & 12 Geo. 5. c. 64.	The Poor Law Emergency Provisions (Scotland) Act, 1921.	The whole Act.
13 & 14 Geo. 5. c. 6.	The Local Authorities (Emergency Provisions) Act, 1923.	The whole Act.
14 & 15 Geo. 5. c. 9.	The Poor Law Emergency Provisions Continuance (Scotland) Act, 1924.	The whole Act.
15 & 16 Geo. 5. c. 35.	The Poor Law Emergency Provisions Continuance (Scotland) Act, 1925.	The whole Act.
17 & 18 Geo. 5. c. 3.	The Poor Law Emergency Provisions (Scotland) Act, 1927.	The whole Act.
24 & 25 Geo. 5. c. 52.	The Poor Law (Scotland) Act, 1934.	The whole Act.

7TH SCH.
—cont.PART III.
Other enactments repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
24 Geo. 2. c. 40	The Sale of Spirits Act, 1750.	Sections thirteen to sixteen, so far as they relate to workhouses and houses of entertainment for any parish poor.
48 Geo. 3. c. 75	The Burial of Drowned Persons Act, 1808.	The whole Act.
1 & 2 Will. 4. c. 37.	The Truck Act, 1831 ...	Section seven.
1 & 2 Will. 4. c. 41.	The Special Constables Act, 1831.	Section twelve
2 & 3 Vict. c. 51.	The Pensions Act, 1839 ...	Sections two to four; in section seven the words "the minute of any board of guardians and"; in section eight from "except to the guardians" to "in such parish", from "other than the guardians" to "Scotland as aforesaid", and from "which shall not be given" to "advancing the same"; section ten; the Schedules.
8 & 9 Vict. c. 19.	The Lands Clauses Consolidation (Scotland) Act, 1845.	In section one hundred and twenty-seven, the words "poor's rate or" and "and poor's rate".
11 & 12 Vict. c. 43.	The Summary Jurisdiction Act, 1848.	In section thirty-five, the words "to any warrant or order for the removal of any poor person who is or shall become chargeable to any parish, township, or place; nor".
15 & 16 Vict. c. 85.	The Burial Act, 1852 ...	Section forty-nine.
16 & 17 Vict. c. 134.	The Burial Act, 1853 ...	In section seven, the words from "and section forty-nine" to "parish".
24 & 25 Vict. c. 100.	The Offences Against the Person Act, 1861.	Section seventy-three.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. 109.	The Naval Discipline Act.	In section ninety-eight A, in subsection (1), the words from "or of leaving" to the end of the subsection.
35 & 36 Vict. c. 65.	The Bastardy Laws Amendment Act, 1872.	Section seven.
36 & 37 Vict. c. 9.	The Bastardy Laws Amendment Act, 1873.	Section five.
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	In section thirty-one, subsection (2).
49 & 50 Vict. c. 15.	The Sporting Lands Rating (Scotland) Act, 1886.	In section two, the definition of "The Poor Law Act"; in section three, the words "and The Poor Law Act", section five, in section seven the words from "or upon" where those words first occur to "The Poor Law Act", and the words from "or upon" in the second place where those words occur to the end of the section.
49 & 50 Vict. c. 20.	The Burial of Drowned Persons Act, 1886.	The whole Act.
57 & 58 Vict. c. 58.	The Local Government (Scotland) Act, 1894.	In section thirty, in subsection (6) the words from "Provided that" to "poor rate"; in section fifty-four, in the definition of "parish", the words from "for the purposes of" to the end of the definition.
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	In section one hundred and five, the words from "with the concurrence" to the end; sections one hundred and six, one hundred and seven; section one hundred and eighty-five; in section three hundred and ninety-three, subsection (3).

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—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
60 & 61 Vict. c. 31.	The Cleansing of Persons Act, 1897.	In section one, the words from "the use of such apparatus" to "disability" and the words "or for the relief of the poor".
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	In section sixty-nine, in subsection (1) the words from "or (d) any dead body" to "bury it"; in section seventy, the words "(otherwise than at a poor house)".
61 & 62 Vict. c. 60.	The Inebriates Act, 1898....	In section twenty-five, paragraph (f).
8 Edw. 7. c. 65	The Summary Jurisdiction (Scotland) Act, 1908.	In section four, in the last paragraph, the words from "to any warrant" to "district nor".
3 & 4 Geo. 5. c. 28.	The Mental Deficiency Act, 1913.	In section two, in subsection (1), paragraph (b) (vi); in section thirty, proviso (ii).
3 & 4 Geo. 5. c. 38.	The Mental Deficiency and Lunacy (Scotland) Act, 1913.	In section three, in subsection (1) paragraph (c) (vi) and (vii); in section fifteen, subsection (3).
9 & 10 Geo. 5. c. 20.	The Scottish Board of Health Act, 1919.	In section four, in subsection (3), the words from "and it is hereby declared" to the end of the subsection.
10 & 11 Geo. 5. c. 49.	The Blind Persons Act, 1920	The whole Act.
11 & 12 Geo. 5. c. 31.	The Police Pensions Act, 1921.	In section fourteen, paragraph (2).
13 & 14 Geo. 5. c. 23.	The Bastardy Act, 1923	Section three.
19 & 20 Geo. 5. c. 17.	The Local Government Act, 1929.	Part I, except section fifteen and paragraphs (f) and (h) of section eighteen; section one hundred and two.
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	Sections thirty-two and sixty-four.

7TH SCH
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
20 & 21 Geo. 5. c. 33. 23 & 24 Geo. 5. c. 12.	The Illegitimate Children (Scotland) Act, 1930. The Children and Young Persons Act, 1933.	Section four. In section thirty-five, in the proviso to subsection (1) and in subsection (2) the words "or poor law"; in section seventy-two, in subsection (3), the words "or poor law" in each place where they occur; in section eighty-nine, subsection (4), in section ninety-six, in subsection (4), the words from "(a) in the case" to "other case"; in section ninety-eight, in subsection (1), the words "or a poor law authority"; in section one hundred and seven, in the definition of "place of safety", the word "workhouse", and the definition of "poor law authority".
23 & 24 Geo. 5. c. 38.	The Summary Jurisdiction (Appeals) Act, 1933.	In section nine, subsection (2).
23 & 24 Geo. 5. c. 51.	The Local Government Act, 1933.	In section fifty-nine, in subsection (1), paragraphs (c) and (h) and proviso (iv); in section one hundred and eighteen the words "of officers appointed under the Poor Law Act, 1930 or."
24 & 25 Geo. 5. c. 29.	The Unemployment Act, 1934.	The whole Act.
26 Geo. 5. & 1 Edw. 8. c. 31.	The Old Age Pensions Act, 1936.	In section three, in subsection (1), paragraphs (a) and (c), and the words "subject to the provisions of this section", and subsections (2) and (3); in section nine, subsections (3) and (4); section ten; in section twelve, in subsection (1), paragraph (d), in subsection (2) the words from "and for notice" to "registered by them", and subsection (4); in section thirteen, subsection (1).

7TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
26 Geo. 5. & 1 Edw. 8. c. 49.	The Public Health Act, 1936.	In section two hundred and twenty, in the definition of "place of safety", the words "public assistance institution".
26 Geo. 5. & 1 Edw. 8. c. 50.	The Public Health (London) Act, 1936.	Section two hundred and twenty-four; in section three hundred and four, in the definition of "place of safety" the word "workhouse".
1 Edw. 8. & 1 Geo. 6. c. 37.	The Children and Young Persons (Scotland) Act, 1937.	In section eleven, in subsection (1) the words from "or to any person" to "relief of the poor"; in section forty-three, in the proviso to subsection (1) and in subsection (2) the words "or poor law"; in section seventy-six, in subsection (3), the words "or poor law" in each place where they occur; in section ninety-three, subsection (4); section one hundred; in section one hundred and one, subsection (1); in subsection (2) from the words "and expenses" to the end of the subsection; in subsection (7) the words "a poor law authority"; in section one hundred and two, the words "or a poor law authority"; in section one hundred and six, subsection (2); in section one hundred and ten, in the definition of "place of safety" the word "poorhouse", and the definition of "poor law authority".
1 & 2 Geo. 6. c. 11.	The Blind Persons Act, 1938.	Sections two to four; in section five the definition of "medical assistance".

7TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
2 & 3 Geo. 6. c. 40.	The London Government Act, 1939.	In section thirty-three, in subsection (1) paragraph (c) and in subsection (2) paragraph (e); in section thirty-four, in subsection (1), paragraph (a); in section eighty-five the words "of officers appointed under the Poor Law Act, 1930 or"; in section one hundred and sixty-six, the proviso to subsection (1).
2 & 3 Geo. 6. c. 93.	The Unemployment Assistance (Emergency Powers) Act, 1939.	The whole Act.
3 & 4 Geo. 6. c. 13.	The Old Age and Widows' Pensions Act, 1940.	The whole Act, except sections eighteen and twenty-one.
3 & 4 Geo. 6. c. 31.	The War Charities Act, 1940.	In section fourteen, in subsection (3), paragraph (a) of the proviso.
3 & 4 Geo. 6. c. 44.	The Unemployment Insurance Act, 1940.	The whole Act.
4 & 5 Geo. 6. c. 11.	The Determination of Needs Act, 1941.	The whole Act.
6 & 7 Geo. 6. c. 27.	The Pensions and Determination of Needs Act, 1943.	The whole Act, except subsection (2) of section five, section nine and the Second Schedule.
9 & 10 Geo. 6. c. 62.	The National Insurance (Industrial Injuries) Act, 1946.	Section thirty-one.
9 & 10 Geo. 6. c. 67.	The National Insurance Act, 1946.	In section thirty, in subsection (1) paragraph (c) and in subsection (5) paragraph (a); in section sixty-eight, subsection (2) so far as it relates to Parts I or III of the Twelfth Schedule, subsection (3), in subsection (4) the words "and subsection (2) of section forty-two of the Unemployment Assistance Act, 1934", and subsection (6); in the Eleventh Schedule, Parts I and III; in the Twelfth Schedule, Parts I and III.

7TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
9 & 10 Geo. 6. c. 81.	The National Health Service Act, 1946.	In section fifty, subsection (4).
10 & 11 Geo. 6. c. 19.	The Polish Resettlement Act, 1947.	In section two, subsections (1), (3) and (4); in the Schedule, Part I.
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act, 1947.	In section fifty, subsection (4).
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act, 1947.	In section seventy-three, subsection (3); in section one hundred and five, in subsection (3) the words "and the town council of every large burgh", the words "or schemes", and the words from "(a) poor law" to "county council"; in section one hundred and seven, subsection (2); in subsection (3) the words "poor law or", and subsection (4); in section one hundred and eleven, in subsection (2) the words from "or any committee" to "poor law"; in section one hundred and forty, in subsection (1), the words from "and in the case of" to the end of the subsection; in section three hundred and seventy-nine, in subsection (1), the definition of "Poor Law Acts".

CHAPTER 30.

An Act to make further provision regarding the allowance payable to His Majesty's High Commissioner to the General Assembly of the Church of Scotland.

[13th May 1948.]

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

1. The allowance payable to His Majesty's High Commissioner to the General Assembly of the Church of Scotland and charged on the Consolidated Fund of the United Kingdom or the growing produce thereof shall be of such amount not exceeding in any year four thousand pounds as the Secretary of State may, with the concurrence of the Treasury, from time to time determine.

Allowance to Lord High Commissioner to Church of Scotland.

2. This Act may be cited as the Lord High Commissioner Citation. (Church of Scotland) Act, 1948.

CHAPTER 31.

Cotton Spinning (Re-equipment Subsidy) Act, 1948.

ARRANGEMENT OF SECTIONS.

Section.

1. Payment of grants to cotton spinning concerns and groups of concerns.
 2. Prohibition of sales of subsidised machinery.
 3. Powers of entry and inspection.
 4. Disclosure of information.
 5. False information.
 6. Offences by corporations.
 7. Expenses and powers of Board of Trade.
 8. Interpretation.
 9. Short title and extent.
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An Act to provide for the payment of grants out of moneys provided by Parliament in respect of the re-equipment or modernisation of cotton spinning concerns and for purposes connected therewith.

[13th May 1948.]

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 :—

Payment of grants to cotton spinning concerns and groups of concerns.

1.—(1) Subject to the following provisions of this section, the Board of Trade may make to any person carrying on a cotton spinning concern which is approved by the Board, or is included in any group so approved of cotton spinning concerns, grants out of moneys provided by Parliament in respect of expenditure incurred in re-equipping or modernising, in accordance with plans approved by the Board, cotton spinning mills comprised in that concern, such grants not to exceed one quarter of the expenditure in respect of which they are payable.

(2) The Board of Trade shall not approve any cotton spinning concern or group of such concerns for the purposes of this section unless the application for approval is made by the concern or group before the sixth day of April, nineteen hundred and fifty, and the Board are satisfied—

- (a) that the cotton spinning mills comprised in the concern or group are not less than three in number and have a total spindle capacity of not less than four hundred thousand spindles or such smaller number of spindles as the Board may in any case allow ; and
- (b) in the case of a group of concerns, that the group is so organised as effectively to secure the operation in the interests of the group as a whole of the cotton spinning mills comprised therein, with a view in particular to making the best use of the more efficient mills.

(3) The Board of Trade may, if they think fit, approve plans for the re-equipment or modernisation of one or some, but not all, of the cotton spinning mills comprised in a concern or group approved for the purposes of this section.

(4) Grants shall not be made under this section except in respect of expenditure incurred in the purchase and installation, or the modernisation, of machinery or equipment used for cotton spinning or for any purpose preparatory or ancillary to cotton spinning, or any such other class of machinery or equipment

used in cotton spinning mills as may be approved by the Board of Trade :

Provided that, where expenditure is incurred in respect of any machinery or equipment used in a cotton spinning mill both for the purposes of cotton spinning and for other purposes, the expenditure shall be apportioned as between the different purposes in such proportions as may be determined by the Board after consultation with the persons to whom the grant is payable, and the grant shall be payable in respect of such part only of the expenditure as is apportioned to the purposes of cotton spinning.

(5) Grants shall not be made under this section in respect of any machinery or equipment unless the following conditions are complied with :—

- (a) the purchase and installation of the machinery or equipment or, as the case may be, the modernisation thereof must have been completed before the grant is made ;
- (b) any contracts relating to the purchase, installation or modernisation must have been entered into on or before the thirtieth day of April, nineteen hundred and forty-nine, or such later date as the Board of Trade with the approval of the Treasury may in special circumstances allow ; and
- (c) the date of the completion of the purchase and installation or, as the case may be, the modernisation must have fallen within the period beginning with the sixteenth day of August, nineteen hundred and forty-five, and ending with the thirtieth day of April, nineteen hundred and fifty-two, or such later date as the Board of Trade with the approval of the Treasury may in special circumstances allow.

(6) Where two or more cotton spinning concerns have been unified or grouped and the resulting concern or group has been approved by the Board of Trade for the purposes of this section, a grant may be made under this section in respect of expenditure incurred, before the unification or grouping was effected, by the person carrying on any of the concerns unified or grouped, if the expenditure is in accordance with a plan approved by the Board of Trade for the unified concern or group of concerns and otherwise satisfies the requirements of this section.

(7) Any plans submitted for approval under this section for the re-equipment or modernisation of any cotton spinning mill shall be accompanied by particulars indicating the arrangements being made or proposed to be made for promoting the safety, health and welfare of the persons employed in the mill.

(8) The Board of Trade may authorise the Cotton Board to perform such functions in connection with the approval of

cotton spinning concerns or groups of such concerns for the purposes of this section, or the approval for those purposes of plans for re-equipping or modernising cotton spinning mills, or otherwise in connection with the consideration of applications for grants under this section, as the Board of Trade think fit.

Prohibition
of sales of
subsidised
machinery.

2.—(1) No person shall, without the consent of the Board of Trade, sell any machinery or equipment in respect of which a grant has been paid under the preceding section or any part of any such machinery or equipment, unless the sale takes place more than ten years after the payment of the grant.

(2) The Board of Trade, in giving consent under this section, may impose such conditions as they think fit, which may include conditions as to the price to be charged or conditions requiring the repayment of the whole or any part of the grant made in respect of, or attributable to, the machinery or equipment to be sold.

(3) Any person who sells any machinery or equipment in contravention of subsection (1) of this section or fails to comply with any condition imposed under subsection (2) of this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

(4) For the purposes of this section, any transaction whereby a right to use, or facilities for using, any machinery or equipment is or are granted for valuable consideration shall be deemed to be a sale of the machinery or equipment, and any reference to the price of the machinery or equipment shall be construed as referring to that consideration.

Powers of
entry and
inspection.

3.—(1) Any person authorised by the Board of Trade shall, for the purpose of ascertaining or verifying any matter arising in connection with an application for a grant under section one of this Act, have a right, on producing, if so required, some duly authenticated document showing his authority, to enter and inspect at all reasonable hours any premises comprised in a cotton spinning concern approved for the purposes of the said section one, or included in a group so approved, and to require any person in the premises who is for the time being in charge thereof or in control of the work carried on therein to produce to the person carrying out the inspection and to allow him to examine such books of account, records and other documents and to furnish such other information as he may reasonably require for the said purpose, and the person carrying out the inspection shall have a right to take copies of or extracts from any such documents.

(2) Any person who wilfully obstructs any person exercising a right conferred by the preceding subsection or who refuses to produce any books, records or other documents or to furnish any other information which he is required to produce or furnish under the preceding subsection, shall be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

4.—(1) No information relating to a particular concern or particular concerns which is obtained under or by virtue of the provisions of this Act, shall, without the previous consent in writing of the persons carrying on the concern or concerns be disclosed except in connection with the execution of this Act or for the purposes of any proceedings pursuant thereto or any report of such proceedings. Disclosure of information.

(2) Any person contravening the provisions of this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine.

5. If any person, in pursuance of any requirement under this Act to furnish information or in connection with any application for a grant under this Act, 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, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and such fine. False information.

6. 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 or 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. Offences by Corporations.

7.—(1) Any administrative expenses incurred by the Board of Trade for the purposes of this Act shall be defrayed out of moneys provided by Parliament. Expenses and powers of Board of Trade.

(2) 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. 8.—(1) In this Act, the following expressions have the meanings respectively assigned to them, that is to say:—

“ cotton fibre ” includes waste cotton fibre from whatever process arising ;

“ cotton spinning ” means the production from fibre of single yarn containing not less than ninety-five per cent. by weight of cotton fibre, staple rayon fibre or a mixture of those fibres, except in so far as such yarn is produced by a person carrying on the business of manufacturing wool textiles for use by him in the course of that business, and includes the subjection of yarn so produced to any of the processes commonly known as gassing, reeling, warping, beaming and winding, and “ cotton spinning mill ” shall be construed accordingly ;

“ cotton spinning concern ” means a concern the activities of which consist of or include cotton spinning ;

“ staple rayon fibre ” means staple rayon fibre not exceeding three inches in length and includes waste rayon fibre from whatever process arising ;

“ the Cotton Board ” means the development council established under the Industrial Organisation and Development Act, 1947, and known as the Cotton Board 1948.

10 & 11 Geo. 6.
c. 40.

(2) For the purposes of this Act, the spindle capacity of any cotton spinning mill shall be taken to be the total spindle capacity of the machinery used in the mill for the purposes of cotton spinning, and the capacity of any such machinery shall be taken to be a number of spindles equal to the total number of mule spindles, or one and a half times the total number of ring spindles (used in spinning), as the case may be, which that machinery is capable of accommodating.

Short title and extent. 9.—(1) This Act may be cited as the Cotton Spinning (Re-equipment Subsidy) Act, 1948.

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

CHAPTER 32.

River Boards Act, 1948.

ARRANGEMENT OF SECTIONS.

Establishment and functions of river boards.

Section.

1. Establishment of river boards for areas comprising whole of England and Wales except Thames, Lee and London areas.
2. Definition of river board areas and constitution of river boards.
3. Variation of river board areas and of constitution of river boards.
4. Functions of river boards.
5. Extension of river board areas for purposes of certain functions.
6. Definition of main river.
7. Thames and Lee catchment areas and London.
8. Transfer of navigation functions
9. Conservation of water resources and provision of information.

Financial and administrative provisions.

10. Financial provisions.
11. Borrowing powers.
12. Reports and accounts.
13. Acquisition and disposal of land.
14. Power to erect buildings.
15. Power to take samples of effluents.
16. Powers of entry and inspection
17. Penalty for obstruction.
18. Procedure for making byelaws.
19. Notices and other documents
20. Publicity for proceedings of river boards.
21. Power to promote and oppose legislation.
22. Default powers of ministers.
23. Expenses of Ministers.
24. Inquiries by Ministers.

Transfer of assets and liabilities to river boards.

25. Transfer to river boards of assets and liabilities of catchment boards, fishery boards, and certain joint boards and joint committees of local authorities.
26. Transfer to river boards of certain assets and liabilities of local authorities.
27. Further provisions as to transfer of assets and functions.
28. Transitional provisions in case of transfer of functions by order.

Pension rights and compensation of officers.

29. Pension rights.
30. Compensation of officers and servants.

Supplementary provisions.

31. Saving for existing orders, regulations, etc.
32. Power to postpone triennial appointment of new members of catchment boards and river boards.
33. Regulations and orders.
34. Exercise of functions by appropriate Minister in certain cases.

Section.

- 35. Appointed day.
- 36. Interpretation.
- 37. Provisions as to Border rivers and Solway Firth.
- 38. Short title and extent.

SCHEDULES :

First Schedule.—Procedure for making orders and provisions as to the validity of orders.

Second Schedule.—Provisions as to river boards, their members, committees, proceedings, etc.

Third Schedule.—Application of enactments in relation to river board areas.

An Act to provide for establishing river boards and for conferring on or transferring to such boards functions relating to land drainage, fisheries and river pollution and certain other functions ; and for purposes connected with the matters aforesaid. [28th May 1948.]

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 :—

Establishment and functions of river boards.

Establishment of river boards for areas comprising whole of England and Wales except Thames, Lee and London areas.

1.—(1) The Ministers shall, as soon as practicable, in accordance with the following provisions of this Act—

- (a) by order define areas (to be known as "river board areas") which shall between them comprise the whole of England and Wales, except the Thames and Lee catchment areas, the administrative county of London and any area adjoining that county which is not at the date of the passing of this Act included in any catchment area ;
- (b) by order establish boards (to be known as "river boards") for the areas so defined, who shall have the functions conferred on or transferred to them by or under the following provisions of this Act, being functions relating to land drainage, fisheries and river pollution and certain other functions relating to rivers, streams and inland waters.

(2) Without prejudice to the duty of the Ministers under the preceding subsection, orders defining river board areas and establishing river boards may be made at different times for different areas.

2.—(1) Each river board area shall consist of an area the drainage of which is directed to a river or group of rivers, together with such adjoining areas as the Ministers consider it expedient to include in the river board area, and the order defining a river board area shall do so either by reference to a map or by reference to the line of any watershed or the boundary of any area of local government or catchment area existing immediately before the making of the order, or partly by one method and partly by another.

Definition of
river board
areas and
constitution
of river boards.

(2) An order establishing a river board shall provide for the appointment of such number of members not exceeding forty as may be specified in the order, who shall be appointed as follows :

- (a) one member shall be appointed by the Ministers ;
- (b) such number, not being less than three-fifths or more than two-thirds of the remaining members, as may be specified in the order shall be appointed, whether from their own members or not, by the councils of the counties and county boroughs whose area, or any part of whose area, is included in the river board area ;
- (c) the remainder of the members shall be appointed by the Minister of Agriculture and Fisheries and shall consist of—

(i) persons appointed, after consultation with the drainage boards whose districts are wholly or partly included in the river board area, to represent those boards, and persons appointed to represent that portion, if any, of the river board area for which drainage boards might be, but have not been, established ; and

(ii) persons appointed to represent fishery interests in the river board area after consultation with any association or person appearing to the Minister to represent a substantial fishery interest in that area.

(3) As respects the members of a river board to be appointed by the councils of counties and county boroughs, the number to be appointed by each of the said councils shall be such as the Ministers may determine, having regard to the estimated amounts of the contributions to be made by those councils respectively towards the expenses of the board, and shall be specified in the order.

(4) Where it appears to the Ministers that, owing to the small estimated amount of the contribution to be made by the council of any county or county borough as aforesaid, the council ought not to appoint a member of the river board, the Ministers may provide in the order that that council shall be represented by a member appointed by agreement between that council and the

council of any other county or county borough concerned, or, in default of agreement between the councils, by a member appointed by the Ministers to represent the councils jointly.

(5) The councils of counties shall secure that adequate representation is given to the county districts wholly or partly included in a river board area, having regard to the relative rateable values of property in those districts or parts thereof, and in particular, where the total rateable value of property in any county district or part of a county district included in a river board area bears to the total rateable value of the property in the county or part of the county so included a proportion greater than that borne by the number one to the number of members of the river board to be appointed by the council of that county, one or more of the members so appointed shall be appointed from among persons nominated by the council of the county district, and the number of members to be appointed from among persons so nominated shall be fixed having regard to the said proportion and shall be specified in the order establishing the river board.

(6) The councils of counties and county boroughs and the Ministers and the Minister of Agriculture and Fisheries in making appointments under this section shall have regard to the desirability of including, as far as practicable, among the members appointed by them persons having a practical knowledge of the various matters with respect to which river boards exercise functions, and the councils of counties and county boroughs shall not appoint any officer or servant of the council or of any other local authority :

Provided that the council of a county or county borough shall not thereby be precluded from appointing a member of the council who is also an officer or servant of another local authority.

(7) Where a river board is established for an area which consists of or includes the River Ouse (Yorks) Catchment Area or the River Trent Catchment Area, the order establishing the board shall provide for the appointment of a member by the National Coal Board, and that member shall be additional to the members appointed under subsection (2) of this section and shall be disregarded for the purposes of that subsection.

(8) Any order defining a river board area or establishing a river board shall be made in accordance with Part I of the First Schedule to this Act, and Part III of that Schedule shall apply with respect to the validity of any such order ; and Part II of that Schedule shall, in the case of any order defining a river board area, apply for the purpose of making the order subject to special parliamentary procedure in the circumstances specified in that Part.

(9) The provisions of the Second Schedule to this Act shall have effect with respect to river boards and their members, the appointment of committees, the proceedings of river boards and their committees, and the appointment by river boards of officers and servants.

3.—(1) The Ministers may, whether before or after they have defined river board areas comprising the whole area mentioned in section one of this Act, by order—

- (a) alter an existing river board area, whether by way of extension or reduction ; or
- (b) define a new river board area which includes or consists of one or more existing river board areas or any part or parts thereof ;

and subsection (1) of the last preceding section shall apply to any order made under this subsection and to the area as defined thereby, subject to the modification that the reference to a catchment area shall include a reference to a river board area :

Provided that nothing in this subsection shall be taken as authorising the inclusion in a river board area of the whole or any part of the areas excluded from section one of this Act.

(2) An order made under the preceding subsection shall state whether it is to be regarded as altering an existing river board area or as defining a new river board area for which a new river board is required to be established, and in the latter case the Ministers shall by order establish a new river board in accordance with the preceding provisions of this Act, and in the former case the Ministers may, to such extent as appears to them to be necessary in consequence of the alteration of the river board area, by order vary the constitution of the river board for the altered area, but not so as to depart from the requirements of the last preceding section.

(3) The Ministers may by order vary the constitution of any river board to such extent as appears to them to be necessary in consequence of any substantial alteration of the areas of local government included wholly or partly in the river board area or any substantial change in the rateable value of the property in any such area of local government, but not so as to depart from the requirements of the last preceding section.

(4) Any order made under this section shall be made in accordance with Part I of the First Schedule to this Act, and Part III of that Schedule shall apply with respect to the validity of any such order ; and Part II of that Schedule shall, in the case of any order altering or defining a river board area, except an order altering a river board area which states that the alteration is due solely to an alteration in the direction of the drainage of any land, apply for the purpose of making the order subject to special parliamentary procedure in the circumstances specified in that Part.

Functions of
river boards.

38 & 39 Vict.
c. 55.
39 & 40 Vict.
c. 75.

4.—(1) For the purpose of conferring on river boards the functions of catchment boards and fishery boards and the functions exercisable by local authorities and joint boards and joint committees of local authorities under section sixty-nine of the Public Health Act, 1875, the Rivers Pollution Prevention Act, 1876, and any enactment relating to river pollution contained in a local Act or statutory order, the enactments and statutory orders referred to in the Third Schedule to this Act shall have effect, as from the appointed day, in relation to any river board area, subject to the modifications, adaptations and exceptions specified in the said Schedule.

(2) As from the appointed day, any catchment board, fishery board, local authority, joint board or joint committee, the whole or any part of whose area or district is included in a river board area, shall cease to exercise the functions aforesaid or, as the case may be, cease to exercise them in relation to that part of their area or district, but nothing in this section or in the Third Schedule to this Act shall affect the exercise of functions by any such body in relation to any area or district, or any part of an area or district, not included in a river board area.

(3) Where, in consequence of an order made under the last preceding section, there is included in any new or existing river board area the whole or any part of another river board area, there shall become exercisable, as from the appointed day, by the river board for the first-mentioned area (in addition to the functions which become exercisable by that board under subsection (1) of this section) any other functions previously exercisable in the other river board area or part thereof, as the case may be, by the river board for that area, and those functions shall as from that day cease to be exercisable or, as the case may be, cease to be exercisable in that part, by the last-mentioned river board.

Extension of
river board
areas for
purposes of
certain
functions.

5.—(1) A river board area shall—

(a) for the purposes of the functions of the river board relating to fisheries, include those tidal waters and parts of the sea adjoining the coast of the river board area within which His Majesty's subjects have the exclusive right of fishing; and

(b) for the purposes of the functions of the river board relating to river pollution, include such tidal waters and parts of the sea adjoining the coast of the river board area as are included in the definition of "stream" for the purposes of the Rivers Pollution Prevention Act, 1876, by virtue of an order made, whether before or after the passing of this Act, under section twenty of that Act or section fifty-five of the Salmon and Freshwater Fisheries Act, 1923.

13 & 14 Geo. 5.
c. 16

(2) Any question arising under the preceding subsection as to the extent of the tidal waters or parts of the sea included in any river board area for the purposes mentioned in paragraph (a) of that subsection shall be determined by the Minister of Agriculture and Fisheries.

6.—(1) When a new river board area has been defined, or an existing river board area has been altered so as to affect the extent of the main river for the purposes of Part II of the Land Drainage Act, 1930, the Minister of Agriculture and Fisheries shall cause a map of the area as defined or altered to be prepared showing by some distinctive colour the extent to which any river or watercourse in the area is to be treated as the main river or part of the main river for the said purposes, and shall cause to be published, in one or more newspapers circulating in the area, a notice stating that the map has been prepared and specifying the place at which a copy of the map may be inspected and the time (not being less than twenty-eight days) within which, and the manner in which, objections thereto may be made.

Definition of
main river.
20 & 21 Geo. 5.
c. 44.

(2) On the expiration of the time within which objections may be made as aforesaid, the Minister of Agriculture and Fisheries shall, if no objections have been made, forthwith approve the map as prepared and, if any objections have been made, shall take those objections into consideration and after so doing proceed to approve the map, either as prepared or with such modifications as he thinks fit.

(3) The Minister of Agriculture and Fisheries may at any time, on the application of the river board, after giving notice of his intention so to do in such manner as he thinks best adapted for informing persons affected and after considering any objections made to him, vary the map as approved by him under this section.

(4) The map as approved or as varied in accordance with the provisions of this section shall be conclusive evidence for all purposes as to what is the main river, and shall, for the purposes of the Documentary Evidence Acts, 1868 to 1895, be deemed to be a document issued by the Minister of Agriculture and Fisheries.

(5) The Minister of Agriculture and Fisheries shall supply to the river board a copy of the map approved by him under this section for their area, and if at any time thereafter he varies the map, he shall supply to the board a copy of the map as varied.

7.—(1) The Ministers may at any time by order provide that the whole or any part of the areas excluded from section one of this Act shall cease to be excluded from that section, and accordingly shall, whether in that order or in any subsequent order, make such provision in accordance with the preceding

Thames and
Lee catchment
areas and
London.

provisions of this Act as the Ministers think fit for the purpose of defining as, or including in, a river board area or river board areas the whole or part of the areas excluded as aforesaid.

(2) Where, in pursuance of the preceding subsection, any new river board area is defined or any existing river board area is altered, the Ministers shall by order provide in accordance with the preceding provisions of this Act, but subject to the following provisions of this section, for establishing a new river board or, as the case may be, for varying the constitution of the existing river board to such extent, if any, as appears to the Ministers to be necessary in consequence of the alteration.

(3) Where the whole or any part of the areas excluded from section one of this Act has ceased to be so excluded, the powers of the Ministers under section three of this Act shall be exercisable with respect thereto.

(4) The Ministers, in making any order establishing or varying the constitution of a river board for an area which consists of or includes the whole or any part of the areas originally excluded from section one of this Act, shall make such provision for the representation of bodies or persons having special interests in the said areas or part thereof as the Ministers consider necessary or expedient, and may depart from the requirements of section two of this Act with respect to the constitution of river boards to such extent (if any) as they may consider necessary or expedient to enable provision for such representation to be made; and Part II of the First Schedule to this Act shall apply for the purpose of making any such order subject to special parliamentary procedure in the circumstances specified in that Part.

(5) Where a new river board area is defined so as to consist of or include the whole or any part of the areas originally excluded from section one of this Act, or a river board area is altered by the inclusion therein of any part of the said areas, section four of this Act shall have effect subject to such modifications as may be specified by order of the Ministers, and the order may in particular provide—

- (a) for the transfer to the board from the Conservators of the River Thames or the Lee Conservancy Catchment Board of functions not mentioned in that section, or for the transfer to the board of functions from authorities not mentioned in that section, being authorities exercising in the said areas or part thereof functions relating to land drainage fisheries or river pollution;
- (b) for requiring any such authority to make payments to the river board in respect of expenses incurred by the board in exercising any functions transferred to them from the authority by the order; and
- (c) for the making of such modifications or adaptations of, or exceptions from, or the repeal of such provisions of,

any local Act or statutory order as the Ministers consider necessary or expedient in consequence of any transfer of functions made by the order.

(6) Any order made under this section providing that the whole or any part of the areas excluded from section one of this Act shall cease to be excluded from that section, and any order made under the last preceding subsection, shall be made in accordance with Part I of the First Schedule to this Act, and Part II of that Schedule shall apply for the purpose of making such orders subject to special parliamentary procedure in the circumstances specified in that Part, and Part III of that Schedule shall apply with respect to the validity of such orders.

8.—(1) The Ministers may, on application made by the river board or authority concerned and after consultation with the authority or board concerned other than the applicant, by order provide for the transfer to a river board of any functions exercisable in the river board area by any navigation authority, conservancy authority or harbour authority. Transfer of navigation functions.

(2) Any order made under this section may provide for the making of such modifications or adaptations of, or exceptions from, or the repeal of such provisions of, any local Act or statutory order relating to the functions transferred by the order as the Ministers consider necessary or expedient in consequence of that transfer.

(3) An order made under the preceding provisions of this section shall be made in accordance with Part I of the First Schedule to this Act and Part II of that Schedule shall apply for the purpose of making such orders subject to special parliamentary procedure in the circumstances specified in that Part, and Part III of that Schedule shall apply with respect to the validity of such orders.

(4) Where functions are exercisable or are to become exercisable by a river board, being functions which have been or are to be transferred to the board by an order made under the preceding provisions of this section or have been so transferred to another river board and subsequently become or are to become exercisable by the first-mentioned board, and it appears to the Ministers that those functions, together with any other functions of the river board relating to navigation, are of sufficient importance to justify the appointment of an additional member of the board to represent the interests affected by the exercise of those functions, they may at any time by order provide for the appointment by the Minister of Transport of such a member, who shall be additional to the members appointed under subsection (2) of section two of this Act and shall be disregarded for the purposes of that subsection ; and if at any time it appears to the Ministers that the functions which justified the appointment of such a

member have ceased to be of sufficient importance to justify his continued membership, they may revoke the order and thereupon the member so appointed shall vacate his office.

The powers conferred by this subsection may be exercised by an order made under the preceding provisions of this section, or by an order made under section three of this Act establishing or varying the constitution of a river board, or by a separate order.

Conservation
of water
resources
and provision
of informa-
tion.

9.—(1) It shall be the duty of every river board, in exercising the functions conferred on or transferred to them by or under this Act, to conserve so far as practicable the water resources of their area.

(2) Any river board may submit to the Minister of Health a scheme for the measurement and recording of the rainfall in the river board area or any part thereof or of the flow or volume of any river, stream or inland water in the area, and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and the Minister may approve any such scheme with or without modification, and on such approval the river board shall carry out the scheme.

(3) The Minister of Health may give directions requiring any river board—

- (a) to measure and record the rainfall in the river board area or any part thereof or the flow or volume of any river, stream or inland water in the area and for those purposes to install and maintain such gauges or other apparatus and works connected therewith as may be specified in the directions ;
- (b) to furnish such information obtained in pursuance of the directions or any scheme approved under the last preceding subsection at such times and in such form as may be so specified ;
- (c) to furnish such information as to the abstraction of water from, and the discharge of effluents into, any river, stream or inland water in the river board area, and such other information relating to water resources in the area as may be specified in the directions, at such times and in such form as may be so specified ;

and it shall be the duty of the river board to comply with any directions so given.

(4) Section fifty-five of the Land Drainage Act, 1930 (which provides for the making of grants towards expenditure incurred in the construction or improvement of works) shall extend to the construction or improvement of any such gauges or other apparatus or works as aforesaid.

(5) Every river board shall give reasonable facilities for the inspection of records kept by them of the rainfall or the flow or volume of any river, stream or inland water in their area, and for the taking of copies of and extracts from such records, and such facilities shall be available free of charge to all local authorities and drainage boards whose areas or districts are wholly or partly included in the river board area and shall be available to other persons on payment of such fees as may be approved by the Minister of Health.

(6) Where any gauge for measuring and recording the flow or volume of any river, stream or inland water was installed before the date when functions relating to land drainage first became exercisable by a river board in the place where the gauge was installed, the person having possession of the gauge on the said date shall, within three months from the said date, give notice of the installation to the river board and shall state in the notice where the records of the flow or volume are kept; and any person who proposes to install any such gauge in a place where the said functions are exercisable by a river board shall, at least three months before commencing the work, give notice to the river board and shall, within one month after the gauge has been installed, give notice to the board where the records of the flow or volume are kept.

(7) A river board shall have a right, at all reasonable hours, to inspect any records kept by any person of the flow or volume of any river, stream or inland water in the river board area, and to take copies of and extracts from such records.

(8) A river board may give directions requiring any person who in their opinion is abstracting water from any river, stream or inland water in the river board area in quantities which are substantial in relation to the flow or volume of the river, stream or inland water or is discharging effluents into any such river, stream or inland water, to give such information as to the abstraction or discharge, at such times and in such form, as may be specified in the directions:

Provided that any person to whom such directions are given may, if he considers that the directions are unreasonable or unduly onerous, make representations to the Minister of Health with respect thereto and the Minister may thereupon, if he thinks fit, require the river board to revoke or modify the said directions, and the river board shall comply with the Minister's requirement.

(9) Any person who—

- (a) fails to give a notice which he is required to give by subsection (6) of this section, within the time therein mentioned; or

- (b) fails to comply with any directions given under subsection (8) of this section within such time as may be specified in the directions ;

shall, in respect of each such failure, be liable on summary conviction to a fine not exceeding twenty pounds, and, in respect of any such failure as is mentioned in paragraph (b) hereof, to a further fine not exceeding five pounds for each day on which the failure continues after conviction therefor.

(10) This section except subsection (1) thereof shall apply to the Conservators of the River Thames and to the Lee Conservancy Catchment Board as if they were river boards and their catchment areas were river board areas, subject to the modification that for the references in subsection (6) to the date therein mentioned there shall be substituted references to the date of the passing of this Act, and the provisions of the Land Drainage Act, 1930, so far as they relate to the said Conservators and Catchment Board, shall apply for the purposes of this section as they apply for the purposes of the said Act.

Financial and administrative provisions.

Financial
provisions.

10.—(1) The expenses of a river board, so far as they are not defrayed out of revenues of the board under any enactment other than this section, shall be apportioned by the board among the councils of the several counties and county boroughs which are included wholly or partly in the river board area, on the basis of the totals of the rateable values of all such hereditaments in the respective areas of those councils as are situated within the river board area.

In this subsection the expression "expenses" includes the interest on, and provision for the repayment of, any borrowed moneys.

(2) A river board may issue precepts to the councils of counties or county boroughs requiring payment of amounts apportioned to those councils under the preceding subsection, and, subject to the following provisions of this section, every such council shall pay, in accordance with any precepts so issued to it, the amount thereby demanded.

(3) The aggregate amount for which a precept may be issued under the last preceding subsection in any one financial year to the council of any county or county borough shall not, except with the consent of the majority of those members of the river board who are appointed by or represent councils of counties and county boroughs, exceed the estimated amount which would be produced by a rate of fourpence in the pound levied on that part of the county or county borough which is within the river board area :

Provided that, where a river board have borrowed or are about to borrow any money under this Act, this subsection shall, if a majority of the said members so resolve, have effect during the

currency of the loan as if the said sum of fourpence were increased by such amount as is specified in the resolution.

(4) For the purposes of any apportionment of expenses under this section, the rateable value of hereditaments shall be taken to be the rateable value thereof as shown in the valuation lists in force on the first day of the financial year immediately preceding the financial year in which those expenses are chargeable, and the councils of the several counties and county boroughs wholly or partly included in a river board area shall from time to time, if and when so required by the river board, furnish to them a true and correct statement of the total of the rateable values of all such hereditaments in their respective areas as are situated in the river board area.

(5) It shall be the duty of a river board to prepare, in such form as the Ministers may direct, a statement of the purposes to which the amount demanded by any precept issued by the board under this section is intended to be applied and of the basis upon which it is calculated, and to send a copy of such statement with every precept to which it relates; and the council of the county or county borough shall not be under any obligation to pay the amount demanded by any such precept until they have received the said statement.

(6) Where a river board hold any funds, or any interest in any funds, created under any local Act for fishery purposes, those funds or that interest shall only be used for the purposes for which they or it could have been used if this Act had not been passed, but save as aforesaid all revenues of a river board shall be available for defraying the expenses of the board generally.

11.—(1) A river board may borrow temporarily, by way of **Borrowing**
overdraft or otherwise, such sums as they may require— **powers.**

- (a) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account to which those expenses are chargeable and taken into account in their estimates made by them for that period;
- (b) for the purpose of defraying, pending the raising of money by a mortgage which they have been authorised to raise under this section, expenses intended to be defrayed by means of that money.

(2) A river board may, with the consent of the Ministers, borrow money by mortgage for all or any of the following purposes, that is to say—

- (a) the acquisition of land or the erection of buildings;
- (b) the execution of any permanent work, or the doing of any other thing the cost of which, in the opinion of the Ministers, ought to be spread over a term of years;

(c) the repayment of any money previously borrowed by them or any authority from whom functions are transferred to the river board by or under this Act.

(3) Moneys borrowed by a river board under the last preceding subsection shall be charged indifferently on all the revenues of the board except any such funds as are referred to in subsection (6) of the last preceding section.

(4) Sections one hundred and ninety-eight to two hundred, sections two hundred and two, two hundred and three, two hundred and five, two hundred and six, two hundred and seven (except subsection (5)), and two hundred and eight to two hundred and fourteen of the Local Government Act, 1933, so far as they are applicable to the borrowing of money by a river board by mortgage under this section, shall apply to such borrowing, subject to the following modifications :—

(a) for references to a local authority there shall be substituted references to a river board ;

(b) for references to the Minister of Health there shall be substituted references to the Ministers ;

(c) the expression " prescribed ", except in section two hundred and five, shall mean prescribed by regulations made by the Ministers ;

(d) for references to the county fund or the general rate fund there shall be substituted references to the general revenues of the river board.

(5) Where money is borrowed in pursuance of paragraph (b) of subsection (1) of this section and subsequently money is raised by such a mortgage as is mentioned in that paragraph, then, for the purposes of the provisions of the Local Government Act, 1933, so far as applied by the last preceding subsection, which regulate the repayment of the money raised by that mortgage, the money shall, to the extent of the sum borrowed in pursuance of the said paragraph, be deemed to have been raised at the time when the said borrowing took place.

(6) Nothing in this section shall be taken as authorising any river board to exercise the powers of borrowing conferred thereby otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, and any order made under section one of the Borrowing (Control and Guarantees) Act, 1946, and for the time being in force.

8 & 9 Geo. 6
c. 18.

9 & 10 Geo. 6.
c. 58.

Reports
and accounts.

12.—(1) Every river board shall, before such date in every year as the Ministers may fix, send to the Minister of Agriculture and Fisheries and the Minister of Health a report in respect of the preceding year, and shall at the same time send a copy of the report to the council of every county or county borough which is wholly or partly included in the river board area.

(2) Every report under this section shall be in such form and shall contain particulars with respect to such matters as the Ministers may direct.

(3) The accounts of the receipts and expenditure of river boards and of the officers of river boards shall be subject to audit by a district auditor.

(4) As soon as the accounts of a river board have been audited the board shall send a copy of the accounts to the Minister of Agriculture and Fisheries and the Minister of Health and shall at the same time send a copy to the council of every county or county borough which is wholly or partly included in the river board area and a copy of the accounts shall be kept at the office of the board and any person interested shall be entitled, without payment, to inspect and take copies of, or extracts from, the copy of the accounts.

(5) Copies of reports of a river board under this section and of statements summarising the accounts of a river board shall be furnished to any person on application and on payment of such reasonable sum as the board may determine.

13.—(1) A river board may acquire by agreement any land which they require for any purpose connected with the exercise of their functions : Acquisition and disposal of land

Provided that land not immediately required for such a purpose as aforesaid shall not be acquired under this subsection except with the approval of and subject to any conditions imposed by the Ministers.

(2) The Ministers may authorise a river board to purchase compulsorily any land which they require for any such purpose, and the Acquisition of Land (Authorisation Procedure) Act, 1946 (except section two thereof) shall apply, in relation to any such compulsory purchase, as if this Act had been in force immediately before the commencement of that Act, and it is hereby declared for the avoidance of doubt that the expression " local authority " in the said Act includes a river board. 9 & 10 Geo. 6.
c. 49.

(3) This section shall be without prejudice to the power under section seventy-six of the Land Drainage Act, 1930, to acquire accretions of land resulting from drainage works, and any power conferred by the Salmon and Freshwater Fisheries Act, 1923, to acquire works, artificial obstructions, fisheries, fishing rights, land, and easements for the purposes specified in that Act.

(4) A river board may, with the approval of the Ministers, sell, exchange or let any land vested in them which is not required for any purpose connected with the exercise of any of their functions.

Power to
erect
buildings.

14. A river board shall have power to erect such offices and other buildings as they may require in connection with the exercise of any of their functions.

Power to take
samples of
effluents.

15.—(1) A river board shall have a right to obtain and take away samples of any effluent which is passing from any land or vessel into any river, stream, watercourse or inland water in the river board area.

(2) The result of any analysis of a sample taken under this section shall not be admissible as evidence in any legal proceedings in respect of any effluent passing from any land or vessel unless the following requirements have been complied with, that is to say, the person taking the sample shall forthwith notify to the occupier of the land or vessel his intention to have it analysed, and shall there and then divide the sample into three parts, shall cause each part to be placed in a container which shall be sealed up and marked and shall—

- (a) deliver one part to the occupier of the land or vessel ;
- (b) retain one part for future comparison ; and
- (c) if he thinks fit to have an analysis made, submit one part to the analyst :

Provided that, if it is not reasonably practicable forthwith to comply with the aforesaid requirement as to notification, the said requirement and the other requirements aforesaid shall be complied with as soon as reasonably practicable.

(3) In this section the expression " watercourse " means any channel through which water flows :

26 Geo. 5. &
1 Edw. 8. c. 49.

Provided that it does not include any sewer maintained by a sewerage authority (as defined by section ninety of the Public Health Act, 1936) without prejudice however to the taking of samples under this section of any effluent passing from any such sewer into a river, stream, watercourse or inland water.

(4) In relation to any legal proceedings in respect of any effluent passing from any such sewer as aforesaid, subsection (2) of this section shall have effect as if the reference to the occupier of the land from which the effluent is passing were construed as a reference to the sewerage authority by whom the sewer is maintained.

Powers of
entry and
inspection.

16.—(1) Subject to the provisions of this section, any person authorised by a river board shall, on producing, if so required, some duly authenticated document showing his authority, have a right, at all reasonable hours,—

- (a) to enter any land for the purpose of exercising any functions of the board ;
- (b) for the purpose of determining whether, and if so in what manner, any such functions are to be exercised, or whether any provision of any enactment (including this

Act) relating to such functions or any notice, order, direction or byelaw served, given or made under any such enactment is being or has been complied with, to enter any land and inspect or survey the land and inspect any articles thereon.

(2) The rights conferred by the preceding subsection shall, without prejudice to the generality thereof, be exercisable for the purpose of inspecting any local Acts, statutory orders, awards or other documents in the possession of any body relating to functions of that body which are or have been exercisable in the river board area, and the person carrying out any such inspection shall have a right to take copies of or extracts from any such documents.

(3) Subject to the provisions of this section, any person authorised by the Minister of Agriculture and Fisheries, the Minister of Health or the Minister of Transport shall, on producing, if so required, some duly authenticated document showing his authority, have a right, at all reasonable hours,—

- (a) to enter any land for the purpose of exercising any functions conferred on the Minister, whether alone or jointly with any other Minister, by or under this Act or any other enactment relating to land drainage, fisheries or river pollution, or any enactment relating to navigation contained in the Land Drainage Act, 1930; and
- (b) for the purpose of determining whether, and if so in what manner, any such functions are to be exercised, or whether any functions of a river board ought to be exercised, or are being or have been properly exercised, to enter on any land and inspect or survey the land and inspect any article thereon.

(4) Admission to any land used for residential purposes shall not be demanded as of right under this section unless twenty-four hours notice of the intended entry has been given to the occupier.

(5) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that admission to any land which any person is entitled to enter under this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission will defeat the object of the entry; and
- (b) that there is reasonable ground for entry on the land for the purpose for which entry is required;

the justice may by warrant under his hand authorise that person to enter the land, if need be by force:

Provided that such a warrant shall not be issued, unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the land is unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such a notice would defeat the object of the entry.

(6) Any person entitled to enter any land by virtue of any right of entry under this section may take with him such other persons as may be necessary and on leaving any unoccupied land which he has entered by virtue of such a right shall leave it as effectually secured against trespassers as he found it.

(7) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(8) If—

(a) any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory or workplace discloses, otherwise than in the performance of his duty, to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret ; or

(b) any member or officer of a river board to whom by reason of his official position, any information obtained as aforesaid is disclosed, discloses, otherwise than in the performance of his duty, that information to any person,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

Penalty for
obstruction.

17. Any person who wilfully obstructs any person exercising a right conferred by this Act to enter any land, or to carry out any inspection or survey, or to make copies of or extracts from any document, or to obtain and take away samples, shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

Procedure
for making
byelaws.

18.—(1) The following provisions of this section shall apply to byelaws made by a river board under any enactment conferring powers on them to make byelaws.

(2) Byelaws shall not have effect until confirmed by the Ministers, and at least one month before application for confirmation of any byelaws is made, notice of the intention to apply for confirmation shall be given in the London Gazette and one or more local newspapers circulating in the area to which the byelaws will apply and a copy of the byelaws shall be sent to

every local authority whose county or borough or district is wholly or partly within that area.

(3) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the river board and shall at all reasonable hours be open to public inspection without charge, and the board shall supply printed copies thereof free of charge to any person appearing to the board to be interested.

(4) The Ministers, with or without a public local inquiry, may refuse to confirm any byelaw submitted under this section for confirmation, or may confirm the byelaw either without modification or (subject to the consent of the river board) with such modification as they think fit, and the board shall, if so directed by the Ministers, cause notice of any proposed modification to be given in accordance with such directions.

(5) The Ministers may fix the date on which any 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.

(6) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the river board and shall at all reasonable hours be open to public inspection without charge, and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as the board may determine.

(7) The Ministers, if they consider that the revocation of any byelaw is necessary or desirable, may, after giving notice to the river board and considering any objections raised by them, and, if so required by them, holding a public local inquiry, revoke that byelaw.

(8) The production of a printed copy of a byelaw purporting to be made by a river board upon which is endorsed a certificate purporting to be signed by the clerk of the board stating—

- (a) that the byelaw was made by the board ;
- (b) that the copy is a true copy of the byelaw ;
- (c) that on a specified date the byelaw was confirmed by the Ministers ; and
- (d) the date, if any, fixed by the Ministers for the coming into operation of the byelaw ;

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

19.—(1) All notices and other documents required or authorised by or under this Act or any other enactment to be given, made or issued by or to a river board shall be in writing.

Notices and other documents.

(2) Any notice or other document which a river board are required or authorised as aforesaid to give, make or issue may be signed on behalf of the board by the clerk of the board or any other officer of the board authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document, and any document purporting to bear the signature of the clerk of the board, or of a person expressed to be duly authorised by the board to sign such a document or that particular document shall be deemed, until the contrary is proved, to be duly given, made or issued by authority of the board.

In this subsection the expression "signature" includes a facsimile of a signature by whatever process reproduced.

(3) Any notice or other document which is required or authorised as aforesaid to be given to or served on any person by a river board shall be duly given or served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter.

(4) Any notice or other document required or authorised to be given to or served on an incorporated company or body by a river board shall be duly given or served if given to or served on the secretary or clerk of the company or body.

(5) Any notice or other document required or authorised to be given to or served on a river board shall be duly given or served if given to or served on the clerk of the board in the manner specified in subsection (3) hereof.

52 & 53 Vict.
c. 63.

(6) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person to or on whom any such notice or other document as aforesaid is to be given or 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 in question.

(7) Where any notice or other document is to be given to or served on a person by a river board as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it), and delivering the document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.

Publicity for
proceedings of
river boards.

20.—(1) The minutes of proceedings of meetings of a river board shall be open to the inspection of any local government elector for any part of the river board area, on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom.

(2) Notwithstanding anything in this section any such part of the minutes of proceedings of a river board as contains information with respect to any manufacturing process or trade secret obtained in the exercise of powers under this Act shall not be open to the inspection of a local government elector.

(3) In this section, the expression " local government 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.

21. A river board, or two or more river boards acting jointly, may, with the consent of the Ministers, promote or without any such consent may oppose Bills in Parliament or may apply for or oppose applications for statutory orders.

Power to promote and oppose legislation.

22.—(1) If a complaint is made to the Ministers that a river board have failed to exercise any of their functions in a case where they ought to have done so, or the Ministers are of opinion that an investigation should be made as to whether any river board have failed as aforesaid, they may cause a public local inquiry to be held into the matter.

Default powers of Ministers.

(2) If after a public local inquiry has been held in pursuance of the preceding subsection, the Ministers are satisfied that there has been such a failure on the part of the board in question, they may make an order declaring the board to be in default and directing them for the purpose of removing the default to exercise such of their functions in such manner and within such time or times as may be specified in the order.

(3) If the board declared to be in default by an order made under the last preceding subsection fail to comply with any requirement thereof within the time limited thereby for compliance, the Ministers, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to themselves such of the functions of that board as they think fit.

(4) Where the Ministers have transferred any functions to themselves under this section, any expenses incurred by them in exercising those functions shall be paid in the first instance by them, but the amount of those expenses as certified by the Ministers shall on demand be paid to them by the board, and the board shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.

(5) Any order made under subsection (3) of this section may provide for the transfer to the Ministers of such of the property, rights, liabilities and obligations of the board in default, as, in the opinion of the Ministers, may be necessary or expedient, and

when any such order is revoked the Ministers may, either by the revoking order or by a subsequent order, make such provision as appears to them to be desirable with respect to any property, rights, liabilities and obligations held by them for the purposes of the functions transferred.

Expenses of
Ministers.

23. Any expenses incurred by the Minister of Agriculture and Fisheries, the Minister of Health or the Minister of Transport in the exercise of functions under this Act shall be defrayed out of moneys provided by Parliament.

Inquiries by
Ministers.

24. The Ministers, the Minister of Agriculture and Fisheries, the Minister of Health or the Minister of Transport may cause an inquiry to be held in any case where it appears to them or him to be advisable to do so in connection with any matter arising under this Act or otherwise in connection with any functions of river boards, and the provisions of section two hundred and ninety of the Local Government Act, 1933, shall apply to all inquiries held by the Ministers or by any such Minister as aforesaid under this Act, and the reference in subsection (4) of the said section to a local authority shall, in relation to any such inquiry, be construed as including a reference to any river board, drainage board, fishery board, navigation authority, conservancy authority or harbour authority :

Provided that no such board or authority shall be ordered to pay costs under the said subsection (4) unless they are a party to the inquiry.

Transfer of assets and liabilities to river boards.

Transfer to
river boards
of assets and
liabilities of
catchment
boards, fishery
boards, and
certain joint
boards and
joint commit-
tees of local
authorities.

25.—(1) Where functions are transferred by section four of this Act from any of the following bodies (hereafter in this section referred to as "the transferor board"), that is to say, a catchment board, fishery board or any joint board or joint committee of local authorities to a river board, all property, rights, liabilities and obligations which, immediately before the appointed day, were the property, rights, liabilities and obligations of the transferor board, shall on the said day vest by virtue of this Act and without further assurance in the river board.

(2) Every agreement to which the transferor board was a party immediately before the appointed day, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the board, shall have effect as from the said day as if—

- (a) the river board had been a party to the agreement ;
- (b) for any reference (however worded and whether expressed or implied) to the transferor board there were substituted, as respects anything falling to be done on or after the said day, a reference to the river board ;

- (c) for any reference (however worded and whether expressed or implied) to any member or officer of the transferor board there were substituted, in respect of anything falling to be done on or after the said day, a reference to such person as the river board may appoint or, in default of appointment, to the member or officer of the river board who corresponds as nearly as may be to the member or officer of the transferor board ;
- (d) for any reference (however worded and whether expressed or implied) to any fund or revenues of the transferor board there were substituted, as respects anything falling to be done on or after the said day, a reference to the corresponding fund or revenues of the river board ;
- (e) in the case of an agreement for the rendering of personal services to the transferor board, the services to which the agreement relates were, on and after the said day, services under the river board to be selected by that board which are reasonably equivalent services.

(3) Other documents, not being enactments or statutory orders, which refer, whether specifically or generally to the transferor board, shall be construed in accordance with the provisions of the last preceding subsection, so far as applicable.

(4) Any proceedings pending on the said day to which the transferor board is a party shall be continued as if the river board were a party thereto in lieu of the transferor board.

26.—(1) Where functions are transferred by section four of this Act from any local authority, all property which immediately before the appointed day was held or used by the local authority wholly or mainly for the purposes of the transferred functions, and all rights, liabilities and obligations acquired or incurred by the local authority for the said purposes and subsisting immediately before the said day, shall, save as may be otherwise directed by the Minister of Health, vest on the said day by virtue of this Act and without further assurance in the river board.

Transfer to river boards of certain assets and liabilities of local authorities.

(2) Subsections (2) to (4) of the last preceding section shall apply in relation to agreements entered into by the local authority for the purposes of the transferred functions, and to other documents and proceedings relating to those functions, as if the references to the transferor board were references to the local authority.

(3) Any question arising under this section as to whether any property is or was held or used by a local authority wholly or mainly for the purposes of the transferred functions or whether any rights, liabilities or obligations were acquired or incurred

by a local authority for the said purposes or whether any agreements or documents relate or related to those functions shall, in default of an agreement between the local authority and the river board concerned, be determined by the Minister of Health.

Further provisions as to transfer of assets and functions.

27.—(1) The Ministers may by order provide—

- (a) in a case where part of the area or district of any body mentioned in either of the last two preceding sections, but not the whole area or district, is included in the river board area, for determining what, if any, of the property, rights, liabilities and obligations which would, if the whole area or district were included in the river board area, be transferred under subsection (1) of the last preceding section or, as the case may be, subsection (1) of the last but one preceding section, is to be so transferred and what is to remain vested in the said body, and for the apportioning of liabilities and the making of financial adjustments, in such cases as may be specified by the order or determined thereunder, as between any such body as aforesaid and the river board concerned, and for the amendment of any instruments affected by such apportionment or adjustments ;
- (b) in a case where different parts of the area or district of any such body as aforesaid are included in different river board areas, for determining in which of the river boards concerned any such property, rights, liabilities or obligations as aforesaid are to vest, and for the apportioning of liabilities and the making of financial adjustments, in such cases as may be specified by the order or determined thereunder, as between those river boards, and for the amendment of any instruments affected by such apportionment or adjustments ;
- (c) for the registration of the title of a river board to assets vesting in them by virtue of this Act, being assets of a kind subject to provision for the registration of title thereto, and for any other matters for which provision appears to the Ministers to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in a river board by virtue of this Act ;
- (d) for enabling entries relating to mortgages or to transfers and transmissions of mortgages contained in any register kept by a body from whom functions are transferred to a river board by section four of this Act to be transferred to the register of mortgages kept by the river board and for any matters consequential on or incidental to such transfer.

(2) The Ministers may by order provide—

- (a) for dissolving any body whose functions wholly cease in consequence of this Act, or anything done thereunder, and for winding up the affairs of that body ;
- (b) for varying the constitution, so far as may be necessary, of any body part of whose area or district, but not the whole thereof, is included in a river board area, or any body some, but not all, of whose functions are transferred to a river board, and for enabling the body to exercise their functions in relation to the remainder of their area or district, or, as the case may be, to exercise the remainder of their functions, and for making such modifications or adaptations of, or exceptions from, or repealing such provisions of, any local Act or statutory order relating to the body which appear to the Ministers to be necessary or expedient for the purposes aforesaid, and for making such other provision with respect to the affairs of that body as the Ministers consider necessary or expedient ; or
- (c) for any matters consequential on or incidental to the matters aforesaid for which the Ministers consider it is necessary or expedient to provide.

(3) Where functions are transferred by or under this Act from one river board to another river board, the Ministers may by order provide for the transfer of property, rights, liabilities and obligations of the first-mentioned board to the last-mentioned board, and for any other matters consequential on or incidental to the said transfer of functions for which the Ministers consider it necessary or expedient to provide.

28.—(1) Where an order made under section seven of this Act provides for the transfer to a river board of functions to which the last three preceding sections do not apply, the Ministers may by that order provide, in relation to that transfer of functions, for any of the matters for which provision is made by or under any of the last three preceding sections in relation to the transfer of functions mentioned therein. Transitional provisions in case of transfer of functions by order.

(2) Any order made under section eight of this Act transferring functions from any of the authorities mentioned therein to a river board may provide, in relation to that transfer, for any of the matters for which provision is made by or under any of the last three preceding sections in relation to the transfer of functions mentioned therein, and may make such provision (if any) as appears to the Ministers to be just—

- (a) for the payment of compensation by the river board to the authority from whom the functions are transferred ;

- (b) in a case where the functions transferred are of an onerous character, for the making of payments by the authority to the river board in respect of the transfer ; and
- (c) for making other financial adjustments between the river board and the authority, and for other matters consequential on or incidental to the matters aforesaid.

Pension rights and compensation of officers.

Pension
rights,
1 Edw. 8. &
1 Geo. 6.
c. 68.

29.—(1) The Local Government Superannuation Act, 1937, shall have effect as if river boards were specified in Part I of the First Schedule to the Act (which sets out the local authorities whose whole-time officers are to be compulsorily superannuable).

(2) Any statutory resolution passed under subsection (2) of section three of the said Act by a body from whom functions are transferred to a river board by or under this Act, and in force immediately before the appointed day, in respect of a servant or part-time officer who becomes on that day a servant or part-time officer of the board, shall continue in force and have effect as if it had been passed by the board.

(3) In relation to officers and servants of a river board, the appropriate superannuation fund for the purposes of the said Act shall, if there is no county within which the whole or the greater part of the river board area is situated, be the superannuation fund maintained by such county council as may agree with the river board that the superannuation fund maintained by them should be treated as the appropriate superannuation fund aforesaid, or, in default of such agreement, the superannuation fund maintained by such county council as the Minister of Health may direct :

Provided that, where functions are transferred to a river board from a catchment board and, immediately before the appointed day, the catchment board were a constituent authority in relation to a combination scheme in force under section two of the said Act, the river board may agree with the joint committee established by the scheme to make such modifications in the scheme as appear to them to be necessary for making the river board a constituent authority instead of the catchment board and applying the scheme to officers and servants of the river board, and the scheme shall have effect as so modified and, in relation to officers and servants of the river board, the joint superannuation fund maintained under the scheme shall, so long as the scheme remains in force and the river board is a constituent authority, be the appropriate superannuation fund for the purposes of the said Act.

(4) Where any person, who becomes an officer or servant of a river board in consequence of the transfer of rights, liabilities and obligations under this Act, had immediately before the appointed day any pension rights otherwise than under Part I of the Local Government Superannuation Act, 1937, he may, by notice served on the board before the expiration of three months from the appointed day, elect to retain those rights, and in that case he shall not acquire any pension rights by virtue of the preceding provisions of this section ; but, if he does not serve such a notice, the pension rights which he had immediately before the appointed day shall be deemed to have come to an end as from the appointed day :

Provided that, if any fund maintained for the purposes of satisfying any such pension rights as aforesaid is transferred to the river board, and any of the persons entitled to those rights do not elect to retain them, the board shall, in accordance with a scheme approved by the Minister of Health, apply the fund, to such extent as may be specified in the scheme, in supplementing the pensions payable by virtue of subsection (1) of this section to or in respect of the said persons.

(5) For the purpose of enabling persons electing under the last preceding subsection to retain the pension rights therein mentioned, the Ministers shall by order provide, to such extent as appears to them to be necessary, for modifying and adapting, so as to apply to a river board, any scheme or arrangement, whether contained in an enactment, statutory order or other instrument, by which the rights were conferred.

(6) The provisions of this Act relating to the transfer of property, rights, liabilities and obligations to a river board from any other body shall apply to customary obligations of that other body in respect of pensions, notwithstanding that the body was under no legal obligation in respect of those pensions, and if any question arises as to the existence or extent of any such customary obligation, the question shall, in default of agreement, be referred to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, and the decision of the referee or board of referees shall be final, and nothing in the Arbitration Acts, 1889 to 1934, shall be construed as applying to any proceedings before the referee or board.

(7) The Minister of Labour and National Service may, with the consent of the Treasury, pay out of monies provided by Parliament—

(a) to any such referee or to the members of any such board of referees such fees and allowances as he may, with the consent of the Treasury, determine ; and

(b) to persons giving evidence before any such referee or board such allowances as he may, with the consent of the Treasury, determine.

Compensation
of officers
and servants.

30.—(1) The Ministers shall by regulations require every river board to pay, in such cases and to such extent as may be specified in the regulations, compensation to officers and servants of any catchment board, local authority, joint board, joint committee, fishery board or other authority (including another river board) from whom functions are transferred by or under this Act to the river board, being officers or servants who suffer loss of employment or loss or diminution of emoluments in consequence of the said transfer of functions.

(2) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect as from a date earlier than the making thereof, so, however, that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than a river board in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.

(3) Regulations made under this section may include provision as to the manner in which and the person to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations.

Supplementary provisions.

Saving for
existing orders,
regulations,
etc.

31. A transfer of functions to a river board by or under this Act shall not affect any order, regulation, byelaw, scheme, rule, appointment, direction, instruction, licence, approval, requirement or authorisation made or given or other thing done before the appointed day, in the exercise of the said functions, by the catchment board, fishery board, local authority, joint board, joint committee or other authority (including another river board) from whom the functions are transferred, but every such thing shall, if in force at the said day, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the river board to whom the functions are transferred.

Power to post-
pone triennial
appointment
of new
members of
catchment
boards and
river boards.

32.—(1) Where a new river board area is defined or an existing river board area is altered by an order made under this Act and the order involves the transfer to the river board for the area as so defined or altered of all the functions of a catchment board or another river board, or such of those functions as will necessitate the variation of the constitution of that catchment board or that

other river board, and the order is made during a year in which the term of office of the members of that catchment board or other river board will come to an end and before the first day of August in that year, and it appears to the Ministers that the appointed day for the transfer of functions to the river board for the said area, whether it has already been appointed or not, will be later than the thirty-first day of October in that year, they may by order provide for extending the term of office of the said members for such period not exceeding six months as may be specified in the order, and the Ministers may, if it subsequently appears to them at any time before the expiration of the period so specified to be necessary or expedient so to do, provide by order for extending the term of office of the said members for a further period not exceeding six months :

Provided that the powers of the Ministers under this subsection in relation to an order extending the term of office of members of catchment boards only shall be exercisable by the Minister of Agriculture and Fisheries instead of by the Ministers.

(2) Where the term of office of the members of any catchment board or river board is extended under this section, and the functions of the catchment board or river board do not wholly cease on the said appointed day, the term of office of the members who are appointed to succeed those members shall be shortened to a corresponding extent.

33.—(1) All regulations made under this Act, and all orders made thereunder, except orders made under the provisions relating to the compulsory purchase of land and the default powers of the Ministers, shall be made by statutory instrument. Regulations and orders.

(2) All regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by this Act to make an order shall include a power, exercisable in the like manner and subject to the like conditions, to revoke or vary the order.

34.—(1) The powers of the Ministers under this Act in relation to the borrowing of money, the acquisition of land and the making of byelaws by river boards may— Exercise of functions by appropriate Minister in certain cases.

(a) if the money, land or byelaw is required solely for the purposes of the functions of a river board relating to river pollution or the measuring and recording of rainfall or the flow or volume of any river, stream or inland water, be exercised by the Minister of Health ;

(b) if the money, land or byelaw is required solely for the purposes of the functions transferred to a river board under section eight of this Act, be exercised by the Minister of Transport ; and

- (c) if the money, land or byelaw is required solely for the purposes of any function of a river board not referred to in paragraph (a) or paragraph (b) hereof, be exercised by the Minister of Agriculture and Fisheries :

Provided that this section shall not apply to any power to make regulations.

(2) Byelaws made for the purposes specified in paragraph (p) of subsection (1) of section fifty-nine of the Salmon and Fresh-water Fisheries Act, 1923, (which relates to the contamination of waters containing fish) shall be deemed to be byelaws to which paragraph (c) of the preceding subsection applies.

Appointed
day.

35.—(1) Where a new river board area is defined or an existing river board area is altered by an order made under this Act, the Ministers shall appoint a day on which the functions referred to in section four of this Act are to become exercisable by the river board in relation to the area as so defined or altered, and are to cease to be exercisable by other bodies, and on which any consequential vesting in the river board of property, rights, liabilities and obligations is to take place, and any reference to "the appointed day" in the said section four or in any other provision of this Act relating to the transfer of functions or of property, rights, liabilities and obligations from any body to a river board shall, subject to subsection (3) of this section, be construed accordingly, and until the said day the exercise of functions by any other body (including another river board) shall not be affected by the said order.

(2) The said day shall be appointed—

- (a) in a case where a new river board area is defined, or an existing river board area is so altered as to involve the variation of the constitution of the river board, by the order establishing the river board or, as the case may be, varying the constitution thereof ; and
- (b) in any other case, by the order altering the river board area.

(3) References to the appointed day in section twenty-nine and section thirty-one of this Act shall, in relation to the transfer of functions under section eight of this Act and the transfer of rights, liabilities and obligations in consequence thereof, be construed as references to such day as may be appointed by the order transferring those functions.

Interpretation. 36.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"catchment area" and "catchment board" have the same meanings as in the Land Drainage Act, 1930 ;

"conservancy authority" has the same meaning as in the Merchant Shipping Act, 1894 ;

57 & 58 Vict.
c. 60.

- “ drainage board ” has the same meaning as in the Land Drainage Act, 1930, except that, in section two of this Act, it includes a catchment board or river board which have become the drainage board of an internal drainage district (within the meaning of the said Act) but does not include any other catchment board ;
- “ factory ” has the same meaning as in the Factories Act, 1937 ; 1 Edw. 8. &
1 Geo. 6.
c. 67.
- “ financial year ” means a year ending on the thirty-first day of March ;
- “ fishery board ” and “ fishery district ” mean any such fishery board or fishery district as is referred to in section forty-four of the Salmon and Freshwater Fisheries Act, 1923 ;
- “ functions ” includes powers and duties and any reference to the conferring or exercise of functions shall include a reference to the imposing or performance of duties ;
- “ harbour authority ” has the same meaning as in the Merchant Shipping Act, 1894 ;
- “ land ” includes land covered by water and easements and other rights over land ;
- “ local Act ” includes any enactment in a public general Act which amends a local Act ;
- “ local authority ” means the council of any county, county borough or county district ;
- “ navigation authority ” means any person or body of persons having power under any enactment or statutory order to work or maintain a canal or other inland navigation (including a navigation in tidal water) ;
- “ pension ”, in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or in addition thereto ;
- “ pension rights ” include, in relation to any person, all forms of right to or liability for a pension or future payments of a pension to or in respect of that person, and any expectation of the accruer of a pension to or in respect of that person under any customary practice, and includes a right of allocation in respect of the pension or future payments of a pension ;
- “ river pollution ” includes the pollution of streams and other inland waters ;
- “ statutory order ” means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure ;

“the Ministers” means the Minister of Health and the Minister of Agriculture and Fisheries acting jointly, except that, for the purposes of section eight of this Act and in relation to the borrowing of money, the acquisition of land and the making of byelaws for the purposes of functions transferred under that section, the exercise of default powers with respect to those functions, and the making of regulations providing for the compensation of officers and servants of any authority whose functions are transferred under that section, it means the said Ministers and the Minister of Transport acting jointly ; “workplace” has the same meaning as in the Public Health Act, 1936.

(2) Any reference in this Act to the transfer of functions from any body to a river board shall be construed as including a reference to a case where functions cease to be exercisable by the body in any area and substantially the same functions become exercisable in that area by a river board, and any reference to transferred functions shall be construed accordingly.

(3) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act.

Provisions as
to Border
rivers and
Solway Firth.
61 & 62 Vict.
c. 34.

37.—(1) Section one of the Rivers Pollution Prevention (Border Councils) Act, 1898, shall have effect, as from the day first appointed for the transfer of any functions relating to river pollution from the council of any of the following counties, that is to say, Cumberland, Durham and Northumberland, to a river board, subject to the following adaptations, that is to say :—

- (a) the reference to the council of any of the counties through or by which a river situated partly in England and partly in Scotland or any tributary thereof passes shall, in so far as the said county is included in a river board area, be construed as including a reference to the river board for that area instead of a reference to that county ;
- (b) other references to the said counties or to the counties represented by the committee or body constituted under the said section shall include a reference to the said river board.

1 Edw. 8. &
1 Geo. 6.
c. 33.

(2) The functions under the Salmon and Freshwater Fisheries Acts, 1923 to 1935, and the Diseases of Fish Act, 1937, exercisable by the river board whose area includes so much of the river Esk as is situated in England shall be exercisable with respect to the whole of that river, together with its banks and tributary streams up to their source, as if they were part of the river board area :
Provided that—

- (a) offences against the said Acts committed within Scottish jurisdiction shall be prosecuted and fines recovered in

manner directed by the Salmon Fisheries (Scotland) Act, 1868; 31 & 32 Vict.
c. 123.

(b) nothing in this subsection shall authorise the river board to purchase compulsorily under this Act any land in Scotland.

(3) Nothing in this Act shall be construed as authorising any river board to exercise functions under the Acts mentioned in the last preceding subsection with respect to the river Tweed within the meaning of the expression "the river" as defined by the Tweed Fisheries Amendment Act, 1859, and any byelaw amending that definition. 22 & 23 Vict.
c. lxx.

(4) Section eighty-four of the Salmon and Freshwater Fisheries Act, 1923 (which provides for the constitution of a fishery board for the Solway Firth), the words in section eighty-five of that Act "Until such an order as is mentioned in the last preceding section is made and until such date thereafter as may be prescribed by such order", and the Fourth Schedule to that Act are hereby repealed.

38.—(1) This Act may be cited as the River Boards Act, 1948. Short title,
and extent.

(2) Except for the last preceding section this Act shall not extend to Scotland and shall not extend to Northern Ireland.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

PROCEDURE FOR MAKING ORDERS AND PROVISIONS AS TO THE VALIDITY OF ORDERS.

PART I.

General provisions.

1. Before making an order to which this Schedule applies the Ministers shall, after consultation with such of the associations and persons concerned as the Ministers consider it appropriate to consult at that stage, prepare a draft order and shall cause notice of the intention to make the order and of the place where copies of the draft order and of any map referred to therein may be inspected and obtained, and of the time (not being less than 28 days) within which, and the manner in which, objections to the draft order may be made, to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected, and, subject as hereinafter provided, to be served on the council of every county, county borough or county district wholly or partly included in the area affected by the order and on every

1ST SCH.
—cont

river board, drainage board, fishery board, navigation authority, conservancy authority or harbour authority which is known to the Ministers to be exercising jurisdiction within the area affected by the order and, in a case where the area affected by the order includes the whole or any part of the areas originally excluded from section one of this Act, the Metropolitan Water Board.

Provided that—

- (a) in the case of an order establishing or varying the constitution of a river board, it shall not be necessary to serve a notice on the council of any county district not specified in the order or on any navigation authority, conservancy authority or harbour authority, except the Port of London Authority in a case where the area affected by the order includes the whole or any part of the areas originally excluded from section one of this Act ; and
- (b) in the case of an order transferring functions from a navigation authority, conservancy authority or harbour authority to a river board, it shall only be necessary to serve a notice on the councils of the counties and county boroughs aforesaid, any drainage board within whose district the navigation or any part thereof, or inland waters connected with the navigation, are situated, the river board and the authority from whom the functions are to be transferred.

2. Before making the order the Ministers shall consider any objections which may be duly made to the draft order and may in any case cause a public local inquiry to be held with respect to any objections to the draft order.

3. In this Part of this Schedule the expression " the area affected by the order "—

- (a) in the case of an order defining or altering any river board area, means the river board area as proposed to be defined or altered by the order ;
- (b) in the case of an order establishing or varying the constitution of a river board for a river board area, means that river board area ;
- (c) in the case of an order providing that the whole or any part of the areas excluded from section one of this Act shall cease to be excluded from that section means the whole or, as the case may be, that part of those areas ; and
- (d) in the case of an order transferring functions from a navigation authority, conservancy authority or harbour authority to a river board, means the river board area of that river board.

PART II.

Provisions applicable to orders which are subject to special parliamentary procedure.

4. After an order to which this Part of this Schedule applies has been made, the Ministers shall, if an objection has been made under Part I by any body, other than the council of a county district, on

whom notice is required to be served under that Part and has not been withdrawn, give notice of the making of the order and the effect thereof to every such body who has made such an objection which has not been withdrawn, and in that case the order shall not have effect before the expiration of twenty-eight days from the date of the said notice, and if within that period any such body gives notice to the Ministers that they object to the order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Provided that, in the case of an order defining or altering a river board area, this paragraph shall not apply to a navigation authority, conservancy authority or harbour authority, except the Port of London Authority in a case where the river board area as proposed to be defined or altered includes the whole or any part of the areas originally excluded from section one of this Act.

PART III.

Provisions with respect to the validity of orders not confirmed by Parliament.

5. After the making of an order to which this Schedule applies the Ministers shall publish in the London Gazette, and in such other manner as they think best adapted for informing persons affected, a notice stating that the order has been made, and naming a place where a copy thereof may be seen at all reasonable hours :

Provided that, in the case of an order to which Part II of this Schedule applies, the said notice shall not be published until the expiration of the period of twenty-eight days referred to in the said Part II, and the notice shall state whether or not the order is to be subject to special parliamentary procedure.

6. If any person aggrieved by the order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the date of the first publication of the said notice, make an application for the purpose to the High Court, and if any such application is duly made, the court, if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with, may quash the order either generally or in so far as it affects the applicant ; but save as aforesaid the order shall not at any time be questioned by prohibition or certiorari or in any legal proceedings whatsoever :

Provided that this paragraph shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of Part II of this Schedule as if for the reference to the date of the publication of the notice there were substituted a reference to the date on which the order becomes operative under the said Act. 9 & 10 Geo. 6.
c. 18.

Section 2.

SECOND SCHEDULE.

PROVISIONS AS TO RIVER BOARDS, THEIR MEMBERS, COMMITTEES,
PROCEEDINGS, ETC.

1. The board shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

2. The first members of the board shall hold office until the first day of November in the calendar year next following the calendar year in which the first meeting of the board is held.

3. Any members of the board other than the first members thereof shall come into office on the first day of November next after the day on which they are appointed, and shall hold office for a term of three years.

4. Where the constitution of the board is varied by an order made under section three of this Act, any members who are required by or under the order to vacate their office shall do so notwithstanding the provisions of the last preceding paragraph, and any new members of the board appointed in pursuance of the order shall hold office so long only as the other members of the board will hold office.

5. If for any reason whatsoever the place of a member of the board becomes vacant before the end of his term of office, the vacancy shall be filled by the appointment of a new member by the Ministers, the Minister of Agriculture and Fisheries, the Minister of Transport or the council of a county or county borough, as the case may be, by whom the vacating member was appointed, and, in a case where the vacating member was appointed by a county council on the nomination of the council of a county district, the new member shall be appointed on the nomination of that county district and, in a case where the vacating member was appointed to represent the drainage boards in the river board area, the new member shall be appointed after consultation with such of those drainage boards as appear to the Minister of Agriculture and Fisheries to be concerned :

Provided that, where the unexpired portion of the term of office of the vacating member is less than six months, the vacancy need not be filled.

6. A person appointed to fill a casual vacancy shall hold office so long only as the vacating member would have held office.

7. Notwithstanding anything in the preceding provisions of this Schedule—

- (a) a member may resign his office by notice in writing under his hand given to the chairman of the board ; and
- (b) if a member becomes bankrupt or makes a composition or arrangement with his creditors he shall vacate his office ; and
- (c) if a member is absent from meetings of the board for more than six months consecutively he shall, unless his absence is due to illness or some other reason approved by the board, vacate his office on the expiration of the said six months.

8. A person who is an undischarged bankrupt, or who has at any time within the preceding five years made a composition or arrangement with his creditors, shall be disqualified for being appointed or being a member of the board.

9. A vacating member shall, subject to the provisions of this Schedule, be eligible for re-appointment.

10. In the case of a river board for an area which consists of or includes the River Ouse (Yorks) Catchment Area or the River Trent Catchment Area—

(a) the appointment of a new member to fill a vacancy arising in consequence of the place of a member appointed by the National Coal Board becoming vacant before the end of his term of office shall be made by the National Coal Board ; and

(b) any member appointed by the National Coal Board may authorise another person to attend in his stead at meetings of the river board or any committee thereof and to exercise on his behalf all or any of his rights as a member of the board or committee, and any such authority shall be in writing and may be given in respect of a particular meeting or in respect of all meetings until the authority expires or is revoked.

11.—(1) The board shall appoint a finance committee for regulating and controlling the finance of the board.

(2) The board may appoint a committee for any such general or special purpose as in the opinion of the board would be better regulated and managed by means of a committee.

(3) The board may delegate to a committee appointed under this paragraph, with or without restrictions or conditions, as they think fit, any functions exercisable by the board except their powers to issue precepts or borrow money.

(4) The number of members of a committee appointed under this paragraph and their term of office shall be fixed by the board, and any such committee, except the finance committee, may include members who are not members of the board, but at least two-thirds of the members of every such committee shall be members of the board.

(5) Every member of such a committee who at the time of his appointment was a member of the board shall, upon ceasing to be a member of the board, also cease to be a member of the committee :

Provided that for the purposes of this provision a member of the board shall not be deemed by reason of retirement to have ceased to be a member of the board if he has been re-appointed a member thereof not later than the day of his retirement.

12. The proceedings of the board or any committee thereof shall not be invalidated by any vacancy in their number or by any defect in the appointment or qualification of any member of the board or committee.

13. Any member of the board or any committee thereof shall, if he is interested in any company with which the board or committee has or proposes to make any contract, disclose to the board or committee the fact and nature of his interest, and shall take no part in any deliberation or decision of the board or committee relating to such

2ND SCH.
—cont.

contract, and such disclosure shall be forthwith recorded in the minutes of the board or committee :

Provided that the Ministers may, subject to such conditions as they may think fit to impose, remove any disability imposed by this paragraph in any case in which the number of members of the board so disabled at any one time would in the opinion of the Ministers be so great a proportion of the whole as to impede the transaction of business or in any other case in which in the opinion of the Ministers it is in the interest of the inhabitants of the river board area that the disability shall be removed.

14. The board may, with the approval of the Ministers, make rules for regulating the proceedings, including quorum, place of meeting and notices to be given of meetings, of the board or any committee thereof, and with respect to the appointment of a chairman and a vice-chairman of the board or a committee thereof.

15. The first meeting of the board shall be held on such day and at such time and place as may be appointed by the Ministers, and the Ministers shall cause notice of the meeting to be sent by post to each member of the board not less than fourteen days before the day so appointed.

16. A minute of the proceedings of a meeting of the board or of a committee of the board, purporting to be signed at that or the next ensuing meeting by the chairman of the meeting to the proceedings of which the minute relates or the chairman of the next ensuing meeting shall be evidence of the proceedings and shall be received in evidence without further proof, and until the contrary is proved every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held and all the proceedings had at the meeting to have been duly had, and where the proceedings are the proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

17. The Ministers may, if they think fit, authorise the board to pay to the chairman of the board by way of remuneration such sum as the Ministers think fit.

18. The board shall appoint such officers and servants as they think fit, and shall pay to those officers and servants such salaries or other remuneration as they think fit.

19. A river board may pay any reasonable expenses incurred by members or officers of the board or of any committee thereof in attending a conference or meeting convened by one or more river boards, or by any association of river boards, for the purpose of discussing any matter connected with the discharge of the functions of river boards, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting.

20. A river board may pay reasonable subscriptions, whether annually or otherwise, to the funds—

- (a) of any association of river boards formed for the purpose of consultation as to the common interests of river boards and the discussion of matters connected with the discharge of the functions of river boards ;
- (b) of such associations of officers of river boards, being associations formed for the purpose aforesaid, as may be approved by the Ministers.

THIRD SCHEDULE.

Section 4.

APPLICATION OF ENACTMENTS IN RELATION TO RIVER
BOARD AREAS.*Enactments relating to land drainage.*

1. Subject as hereafter in this Schedule provided, all enactments and statutory orders relating to a catchment board or a catchment area, other than the enactments and statutory orders referred to in paragraph 6 of this Schedule, shall have effect subject to the following adaptations :—

- (a) general references to a catchment board or a catchment area shall be construed as references to a river board or a river board area, as the case may be ;
- (b) references to a particular catchment board or a particular catchment area shall be construed as references to the river board by whom the functions of the catchment board have become exercisable, or, as the case may be, their river board area ; and
- (c) references (except in this Act and the Acquisition of Land (Authorisation Procedure) Act, 1946) to a drainage board or to a drainage board constituted under the Land Drainage Act, 1930, or to a drainage district, except where the reference is to a drainage board or drainage district other than a catchment board or a catchment area, shall be construed as including references to a river board or a river board area, as the case may be, and not references to a catchment board or catchment area.

2. Section one (except subsection (3) thereof), subsections (1) to (3) of section two, and sections three, five, twelve, fifteen, twenty, twenty-two (so far as it applies to councils of counties and county boroughs), forty-three, forty-five, forty-six, subsections (2) to (7) of section forty-seven, section forty-eight, subsections (1), (2), (3) and (5) of section forty-nine, and sections fifty-six, seventy-one, seventy-two, seventy-three, seventy-five, seventy-eight, seventy-nine and eighty (except subsection (5) thereof) of the Land Drainage Act, 1930, and the First and Sixth Schedules to the said Act, and section one hundred and eighteen of and the Twelfth Schedule to the Transport Act, 1947, ^{10 & 11 Geo. 6} shall not apply to a river board or a river board area, but without ^{c. 49.} prejudice to their application (so far as applicable) to drainage boards (other than catchment boards) for drainage districts wholly or partly included in any river board area.

3. Section four of the Land Drainage Act, 1930, shall have effect as if subsection (1) thereof empowered a river board at any time, and required them on the direction of the Minister of Agriculture and Fisheries, to submit to the Minister for confirmation a scheme making provision for any of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (a) and sub-paragraphs (i) to (ix) of paragraph (b) of subsection (1) of that section, and as if the reference in that subsection to the commencement of that Act were a reference to the date of the submission of the scheme.

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—cont.

4. Section twenty-three of the Land Drainage Act, 1930 shall have effect as if the references to Part IV of that Act were references to this Act, and section seventy-six of that Act shall have effect as if the reference to Part V of that Act were a reference to this Act.

3 & 4 Geo. 6.
c. 14.

5. Section eighteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, shall not apply to a river board.

6. Any enactment in a local Act and any statutory order which confer functions on a catchment board, and any enactment or statutory order which relates to functions so conferred, shall have effect, in relation to so much of the area to which the enactment or statutory order applies as is included in the river board area, as if for references to the catchment board there were substituted references to the river board, and subject to such further modifications, adaptations and exceptions as may be specified by an order made by the Ministers :

23 Geo. 5. c. x.

Provided that section four of the Doncaster Area Drainage Act, 1933, as amended by article four of the Coal Industry Nationalisation (Doncaster Drainage) Order, 1947, shall not apply to any river board.

Enactments relating to fisheries.

7. Subject as hereafter in this Schedule provided, all enactments and statutory orders relating to a fishery board or a fishery district, other than the enactments and statutory orders referred to in paragraph 13 of this Schedule, shall have effect as if for the references to a fishery board or a fishery district there were substituted references to a river board or a river board area, as the case may be.

8. No order shall be made under Part IV of the Salmon and Fresh-water Fisheries Act, 1923, setting up any fishery board for a district included in a river board area, but an order may be made under the said Part providing for the regulation of fisheries by a river board in a river board area or any part thereof, and, in relation to any such order, paragraph (a) of subsection (1) of section thirty-eight of the said Act shall have effect as if the words " of the fishery district " were omitted and paragraphs (b), (g) and (h) of that subsection and subsection (4) of that section shall not apply, and references in that section, the next following section and the Second Schedule to the fishery board constituted by the order shall be construed as references to the river board, and section forty-one of the said Act shall not apply to a river board.

9. References in section forty-four of the said Act to the fishery boards and districts therein mentioned shall be construed as references to river boards and river board areas.

10. Sections forty-three, forty-five to fifty-three, paragraph (a) of subsection (1) and subsection (2) of section fifty-four, subsection (1) of section fifty-five, sections fifty-six, fifty-seven, fifty-eight and sixty, subsection (2) of section sixty-five, sections sixty-six, sixty-eight and eighty-eight of the said Act and the Third Schedule thereto shall not apply to river boards and river board areas.

11. In subsection (1) of section sixty-four of the said Act, references to water bailiffs appointed under the said Act shall be construed as references to water bailiffs appointed under this Act, and references

in subsequent provisions of that Act to water bailiffs shall be construed accordingly, and the words in subsection (4) of section sixty-seven of that Act "purporting to be executed in the manner prescribed in this Act" shall not apply to water bailiffs appointed under this Act.

12. Section eighty-one of the said Act shall, so far as it relates to byelaws, not apply to river boards.

13. Any enactment in a local Act and any statutory order which confer functions on a fishery board, and any enactment or statutory order which relates to functions so conferred, and any order made under Part IV of the Salmon and Freshwater Fisheries Act, 1923, restricting or modifying the functions of a fishery board under that Act, shall have effect, in relation to so much of the area to which the enactment or order applies as is included in a river board area, as if for references to the fishery board there were substituted references to the river board, and subject to such further modifications, adaptations and exceptions as may be specified by an order made by the Ministers; and any functions exercisable under the said Act by a river board by virtue of paragraph 7 of this Schedule shall be subject to any such restriction or modification made by an order under Part IV of that Act as aforesaid, so far as it applies thereto.

Enactments relating to river pollution.

14. The reference in section sixty-nine of the Public Health Act, 1875, to any local authority shall be construed as a reference to a river board and the words "either within or without their district" and so much of the section as relates to costs shall not apply to a river board.

15. References in section six of the Rivers Pollution Prevention Act, 1876, to a sanitary authority and to a district of a sanitary authority shall be construed as references to a river board and a river board area, respectively and the words in the said section from "and where," to the end of the section shall not apply, and the first paragraph of section eight of the said Act shall be modified so as to have effect as follows:—

"Every river board shall, subject to the restrictions in this Act contained, have power to enforce the provisions of this Act in relation to any stream in the river board area, and for that purpose to institute proceedings in respect of any offence against this Act".

16. Section fourteen of the Local Government Act, 1888, shall not apply to any river board area. 51 & 52 Vict.
c. 41.

17. Any enactment in a local Act and any statutory order which confer functions relating to river pollution on any local authority or any joint board or joint committee of local authorities, and any enactment or statutory order which relates to any functions so conferred, shall have effect, in relation to so much of the area to which the enactment or statutory order applies as is included in a river board area, as if for references to the local authority, joint board or joint committee there were substituted references to the river

board, and subject to such further modifications, adaptations and exceptions as may be specified by an order made by the Ministers :

Provided that this paragraph shall not apply to any enactment or statutory order conferring functions on any such local authority, joint board or joint committee for the purposes of a water undertaking carried on by them.

18. If any enactment or statutory order referred to in the last preceding paragraph (other than the proviso thereto) applies to a part only of a river, an order made under that paragraph may extend the enactment or statutory order to the whole of that river (including any tributaries thereof), so far as it is included in the river board area.

CHAPTER 33.

Superannuation (Miscellaneous Provisions) Act, 1948.

ARRANGEMENT OF SECTIONS.

Sections.

1. Treatment of compulsory national service for pension purposes.
2. Pensions of persons transferring to different employment.
3. Former employees of Approved Societies, etc. becoming civil servants.
4. Special provision as to certain other transfers to the service of the State.
5. Pensions in respect of service to His Majesty in India.
6. Special provisions as to local government superannuation schemes during periods of emergency.
7. Power to extend Local Government Superannuation Act, 1937, or Local Government Superannuation (Scotland) Act, 1937, to employees of certain associations.
8. Amendment of Teachers (Superannuation) Act, 1925, s. 3.
9. Provisions as to Teachers (Superannuation) Act, 1925, s. 21.
10. Amendment of Teachers (Superannuation) Act, 1945, s. 3.
11. Power to extend definition of approved external service.
12. Superannuation of certain persons serving in the educational services otherwise than as teachers.
13. Probation officers.
14. Approved school officers.
15. General provisions as to rules under this Act.
16. Financial provisions.
17. Interpretation.
18. Short title.

SCHEDULE.

- Part I.—Amendments of the Local Government Staffs (War Service) Act, 1939.
- Part II.—Amendments of the Teachers Superannuation (War Service) Act, 1939.
- Part III.—Amendments of the Education (Scotland) (War Service Superannuation) Act, 1939.

An Act to amend the law relating to pensions and other similar payments to be made to and in respect of persons who have been in certain employment, and for purposes connected with the matters aforesaid.

[28th May 1948.]

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) Where a person, immediately before he enters upon compulsory national service, either—
- (a) is a civil servant or serving the State in an unestablished capacity ; or
 - (b) is an employee of a local authority or is in any other employment by virtue of which he is for the time being entitled to participate in the benefits of a superannuation fund maintained under Part I of the Local Government Superannuation Act, 1937, or under Part I of the Local Government Superannuation (Scotland) Act, 1937, or under a local Act scheme ; or
 - (c) is employed in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1946, or is so circumstanced that he is treated for any of the purposes of those Acts as engaged in a period of contributory service ; or
 - (d) is employed in service as defined in the Scottish Teachers Superannuation Scheme, or is so circumstanced that he is treated for any of the purposes of that Scheme as engaged in a period of service,

Treatment
of compulsory
national
service for
pension
purposes.

1 Edw. 8 &
1 Geo. 6. c. 68.
1 Edw. 8 &
1 Geo. 6. c. 69.

rules made under this section may provide that the period of his compulsory national service and such further period, if any, after the termination thereof as may be specified in the rules, shall be treated for the purposes of the Superannuation Acts, 1834 to 1946, as service as a civil servant or to the State in an unestablished capacity, for the purposes of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937, as contributing or non-contributing service, for the purposes of any local Act scheme as service for the purposes of that scheme, for the purposes of the Teachers (Superannuation) Acts, 1918 to 1946, or any scheme made thereunder as contributory service or approved external service, or for the purposes of the Scottish Teachers Superannuation Scheme as a period of service as defined in that Scheme or a period during which he is so circumstanced that he is treated for any of the purposes of that Scheme as engaged in a period of service, as the case may be.

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(2) Where a person who has been successful in a competitive examination for persons desiring to obtain posts in the permanent civil service of the State enters upon compulsory national service before becoming a civil servant, and that examination, or any subsequent examination for persons desiring to obtain similar posts, was one in which persons below the age of eighteen years were allowed to compete, then, where rules made under this section so provide, so much of the period of his compulsory national service as falls after the date on which the Civil Service Commissioners issue their certificate of qualification in relation to him, and such further period, if any, after the termination of his compulsory national service as may be specified in the rules, shall be treated for the purposes of the Superannuation Acts, 1834 to 1946, as service as a civil servant.

(3) Rules under this section shall, in relation to the Superannuation Acts, 1834 to 1946, be made by the Treasury, in relation to the Local Government Superannuation Act, 1937, and local Act schemes in England and Wales, be made by the Minister of Health, in relation to the Local Government Superannuation (Scotland) Act, 1937, and local Act schemes in Scotland, be made by the Secretary of State, in relation to the Teachers (Superannuation) Acts, 1918 to 1946, and schemes made thereunder, be made by the Minister of Education with the consent of the Treasury, and in relation to the Scottish Teachers Superannuation Scheme, be made by the Secretary of State with the like consent, and any such rules may require the payment of contributions or transfer values, and, where the rules are made by or with the consent of the Treasury, may provide for the payment into the Exchequer or out of moneys provided by Parliament or into or out of the Education (Scotland) Fund of any sums payment of which is required or authorised by the rules.

(4) Rules made under this section with respect to the persons referred to in paragraph (a) of subsection (1) of this section may be so framed as to apply, and to be deemed always to have applied, in relation to any person who entered upon his compulsory national service at any time after the beginning of July, nineteen hundred and forty-seven; and rules made under this section with respect to the persons referred to in subsection (2) of this section may be so framed as to apply, and to be deemed always to have applied, in relation to any person who entered upon his compulsory national service at any time after the beginning of the year nineteen hundred and forty-six.

(5) Rules made under this section shall not apply in relation to any of the persons mentioned in paragraphs (b), (c) and (d) of subsection (1) of this section unless their compulsory national service commences, in the case of persons mentioned in the said paragraph (b), after the expiration of the present emergency as

defined for the purposes of the Local Government Staffs (War 2 & 3 Geo. 6.
Service) Act, 1939, in the case of the persons mentioned in the c. 94.
said paragraph (c), after the expiration of the present emergency
as defined for the purposes of the Teachers Superannuation 2 & 3 Geo. 6.
(War Service) Act, 1939 and, in the case of the persons mentioned c. 95.
in the said paragraph (d), after the expiration of the present
emergency as defined for the purposes of the Education (Scotland) 2 & 3 Geo. 6.
(War Service Superannuation) Act, 1939; but the said Acts c. 96.
shall be amended in accordance with the provisions of Parts I,
II and III respectively of the Schedule to this Act and, to the
extent specified in those Parts of that Schedule, shall be deemed
always to have had effect as so amended.

(6) The provisions of the Superannuation Schemes (War 3 & 4 Geo. 6.
Service) Act, 1940, shall apply in relation to persons who cease c. 26.
to follow their employment after the period of the present emergency
(as defined in the said Act) in order to undertake compulsory
national service as they apply in relation to persons who cease
to follow their employment during the period of the present
emergency (as so defined) in order to undertake service in any of
the naval, military or air forces of the Crown.

(7) In this section, the expression "compulsory national
service" means service in any of the armed forces of the Crown
undertaken by virtue of an enlistment notice or a training notice
served under the National Service Acts, 1939 to 1947, or work
or training in pursuance of an order of a tribunal under section
five of the National Service (Armed Forces) Act, 1939 (which 2 & 3 Geo. 6.
relates to conscientious objectors). c. 81.

2.—(1) Where persons who have been employed in one Pensions of
employment become employed in another employment and persons
either— transferring
to different
employment.

(a) one of the employments is, and the other employment is
not, an employment of one of the classes specified in
subsection (2) of this section; or

(b) one of those employments is of one of those classes and
the other employment is of another of those classes,

rules may be made with respect to the pensions payable to and
in respect of those persons by the appropriate Minister, or, as
the case may be, the appropriate Ministers acting jointly :

Provided that this subsection shall not apply unless either—

(i) both employments are pensionable employments; or

(ii) the first employment is of one of the classes specified in
paragraphs (c) and (d) of subsection (2) of this section
and the second employment is of such a nature as may
be specified in rules to be made by the Minister of Health,
or, in relation to Scotland, by the Secretary of State,
and is undertaken with the approval of the local
authority by which the superannuation fund concerned
is maintained.

(2) The classes of employment referred to in subsection (1) of this section are the following, that is to say—

- (a) employment as a civil servant ; and
- (b) employment as a member of the metropolitan police staff ; and
- (c) employment by virtue of which the person employed is or is deemed to be, or, but for any rules made under this section, would be or be deemed to be, a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937 ; and
- (d) employment (not being such employment as is specified in paragraph (c) of this subsection) by virtue of which the person employed is entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme in England or Wales ; and
- (e) employment in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1946, or in service as defined in the Scottish Teachers Superannuation Scheme.

(3) Where either of the employments in question falls within one of the classes specified in subsection (2) of this section, the appropriate Minister, or, as the case may be, one of the appropriate Ministers, for the purposes of subsection (1) of this section shall be—

- (i) in relation to the class specified in paragraph (a) of the said subsection (2), the Treasury ;
- (ii) in relation to the class specified in paragraph (b) of the said subsection (2), the Secretary of State ;
- (iii) in relation to the class specified in paragraph (c) of the said subsection (2), the Minister of Health or the Secretary of State ;
- (iv) in relation to the class specified in paragraph (d) of the said subsection (2), the Minister of Health ;
- (v) in relation to the class specified in paragraph (e) of the said subsection (2), the Minister of Education or the Secretary of State, acting in either case with the consent of the Treasury,

and the said subsection (1) shall be construed accordingly.

(4) Rules made under this section may require the making of the following payments, that is to say—

- (a) where the person who changes his employment has received any payment in respect of his pension rights upon ceasing to be employed in his former employment, payments by that person equal to all or any of the amounts so received ;

- (b) where either of the employments is such an employment as is mentioned in paragraph (a) of subsection (2) of this section, payments out of moneys provided by Parliament ;
- (c) where either of the employments is such an employment as is mentioned in paragraph (b) of the said subsection (2), payments out of the Metropolitan Police Fund ;
- (d) where either of the employments is such an employment as is mentioned in paragraph (e) of the said subsection (2), payments out of moneys provided by Parliament or out of the Education (Scotland) Fund ; and
- (e) where either of the said employments is such an employment as is mentioned in paragraph (c) or paragraph (d) of the said subsection (2), payments by a local authority or out of a superannuation fund maintained by a local authority,

and may provide for any of the said payments, or any payments made in connection with the change of employment otherwise than by virtue of the rules, being made into the Exchequer, into the Metropolitan Police Fund, into the Education (Scotland) Fund, to a local authority or into a superannuation fund maintained by a local authority ; and the payments mentioned in paragraphs (b), (c), (d) and (e) of this subsection may include repayments of contributions, payments of transfer values, payments towards the burden of a pension payable by another person or out of another pension fund, and payments of premiums or other payments directed to the creation or preservation of pension rights of the person in question.

(5) Any rules under this section may be so framed as to apply to persons ceasing to be employed in one employment and becoming employed in another notwithstanding that the cessation of the first employment or the commencement of the second employment was before the date of the making of the rules or before the date of the passing of this Act, and may vary or provide for the variation of pensions notwithstanding that the pensions have been granted before either of the said dates :

Provided that, subject to the provisions of subsection (7) of this section, no rules shall be framed so as to apply when the cessation of the first employment took place before the making of the rules unless—

- (a) the rules are only to apply with the consent of the person ceasing to be employed or that person is by the rules given an opportunity to elect that they shall not apply to him ; and
- (b) where the rules provide for payment by a local authority or out of a superannuation fund maintained by a local authority, that authority has consented to the making

of the rules or the rules are only to apply with the consent of that authority or that authority is by the rules given an opportunity to elect that they shall not apply.

25 & 26 Geo. 5.
c. 23. (6) Section nine of the Superannuation Act, 1935, shall cease to have effect, but any rules made thereunder shall be treated as if they were rules duly made by the appropriate Minister or Ministers under the preceding provisions of this section.

24 & 25 Geo. 5.
c. 29. (7) Paragraph (b) of the proviso to subsection (5) of this section shall not apply to any rules in so far as they vary any rules made under the said section nine or under section fifty-one of the Unemployment Act, 1934.

9 & 10 Geo. 6.
c. 72. (8) Rules made under this section may provide that, in the application of the rules to Scotland, for the purposes of paragraph (d) of subsection (2) of section sixty-nine and of subsection (4) of section seventy of the Education (Scotland) Act, 1946, sums paid out of moneys provided by Parliament and sums paid into the Exchequer in pursuance of such rules in respect of employment in contributory or recognised service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1946, shall be respectively deemed to be sums spent on the superannuation of teachers under those Acts and to be sums received in respect of contributions paid by teachers and employers in England and Wales thereunder.

Former employees of Approved Societies, etc., becoming civil servants. 3.—(1) Rules to be made by the Minister of National Insurance with the consent of the Treasury may make provision with respect to the pensions payable to and in respect of persons who have been employed full time—

- (a) by an Approved Society ; or
- (b) by some other body (including a body of which the Society is a branch or section) administering the affairs of an Approved Society ; or
- (c) by a body administering a special scheme under section seventy-three of the Unemployment Insurance Act, 1935,

25 & 26 Geo. 5.
c. 8.

and, whether before or after the passing of this Act but before such date as may be specified in the rules, become civil servants.

(2) Any such rules may include provisions—

- (a) authorising or requiring persons who have received payments in respect of their pension rights to pay all or any of the amounts received into the Exchequer ; or
- (b) continuing, amending, repealing or revoking any pension scheme under which the persons to whom the rules apply have pension rights and any statutory provisions relating thereto and any trust deed, rules or other

instrument made for the purposes thereof, and providing for the transfer in whole or in part of any pension funds or assets held for the purposes of, or any liabilities under, any such scheme, or for the winding up of any such scheme or the extinguishment of any such liabilities ; or

- (c) dealing in such manner as may appear appropriate with cases in which, in connection with any provision made by this Act or by the National Insurance Act, 1946, 9 & 10 Geo. 6 or in anticipation of the making of any such provision, c. 67. pension rights have been created otherwise than in the ordinary course.

(3) Where the persons having pension rights under any pension scheme or interested in any pension fund include both such persons as are mentioned in subsection (1) of this section and other persons in respect of whom the following conditions are fulfilled, that is to say—

- (a) that they have been employed full time by any such society or body as is mentioned in subsection (1) of this section ; and
- (b) that they have lost that employment ; and
- (c) that the loss of employment is directly attributable to the passing of the National Insurance Act, 1946, or the making of any regulations thereunder,

the rules to be made under this section may apply in relation to pensions payable to and in respect of those other persons as if they were persons such as are mentioned in the said subsection (1), and may provide for payments out of moneys provided by Parliament in respect of the pension rights of those other persons, so, however, that nothing in this subsection shall be construed as requiring identical provision to be made in relation to persons who fall, and persons who do not fall, within the said subsection (1).

(4) The provisions of this section shall have effect in relation to any persons notwithstanding that provision could be made in relation to those persons under any other provision of this Act, and nothing in any such other provision shall be construed as limiting the powers exercisable under this section.

4.—(1) Rules to be made by the Treasury under this subsection may make provision with respect to the pensions payable to and in respect of the following persons, namely—

- (a) persons who, having been employed in one or more of the following employments, that is to say—
- (i) as officers or servants of a local authority in service all or any part of which was not pensionable employment ; or
- Special provision as to certain other transfers to the service of the State.

(ii) in any other employment service in which was not then pensionable but was service in respect of which those persons would, if they had continued in that employment, have become entitled to participate in the benefits of a superannuation fund maintained under Part I of the Local Government Superannuation Act, 1937, or Part I of the Local Government Superannuation (Scotland) Act, 1937, or under a local Act scheme,

left any such employment, before such date before the passing of this Act as may be specified in the rules, in order to become civil servants in the department of the Assistance Board ; and

- (b) persons who, having been employed by the Safety in Mines Research Board, or by a War Agricultural Executive Committee, become, whether before or after the passing of this Act but before such date as may be specified in the rules, civil servants or persons employed in service to the State in an unestablished capacity ; and
- (c) persons who, having been employed in the body which, at the time when it ceased to exist, was known as " K " Signals Company of the Royal Corps of Signals, became, before such date before the passing of this Act as may be specified in the rules, civil servants employed in the Post Office ; and
- (d) persons who, having been employed by the body known as the Meteorological Committee, became at any time before the passing of this Act civil servants in the Meteorological Office of the Secretary of State, not being civil servants subject to a superannuation scheme to which section five of the Superannuation Act, 1946 (which relates to the application to persons employed in the civil service of the State of certain superannuation schemes) applies,

and any such rules may provide for service in any such employment as aforesaid being reckoned, in such manner and to such extent as may be specified in the rules, as service to the State for the purposes of the Superannuation Acts; 1834 to 1946.

(2) Rules made under the preceding subsection may, in relation to persons of the class specified in paragraph (a) of the preceding subsection who—

- (a) at any time before the coming into force of the rules, whether before or after they became civil servants, and whether by reason of their becoming civil servants or for any other reason, received any payment by way of a return of contributions under any enactment, including any

scheme made thereunder or in pursuance thereof, relating to the superannuation of officers and servants of local authorities, being contributions in respect of a period of service as an officer or servant of a local authority which was pensionable employment ; and

- (b) in the case of such payments received before their appointment to be civil servants, did not, before their said appointment, refund the contributions so returned to them,

include provisions requiring those persons to pay into the Exchequer amounts equal to the whole or any part of the contributions so returned to them as a condition of their service as officers or servants of a local authority as aforesaid being reckoned, to the extent specified in the rules, as service to the State for the purposes of the Superannuation Acts, 1834 to 1946.

(3) Rules to be made by the Treasury under this subsection may make provision to secure that benefits corresponding as nearly as may be to the benefits conferred under subsection (1) of this section on or in respect of the persons specified in paragraph (d) of that subsection are conferred on or in respect of persons who, having been employed by the aforesaid Meteorological Committee, were at any time before the passing of this Act employed in the civil service of the State in the aforesaid Meteorological Office and became, and thereafter remained, subject to a superannuation scheme to which section five of the Superannuation Act, 1946, applies.

9 & 10 Geo. 6.
c. 60.

5.—(1) This section shall apply to any pension payable in respect of service to His Majesty out of the revenues of India or Pakistan to any person resident in the United Kingdom, or where the pension is expressed in sterling, in any other place outside India and Pakistan, being service, whether by the recipient of the pension or some other person, either—

Pensions in
respect of
service to His
Majesty in
India.

- (a) in a civil capacity ; or
(b) by virtue of which the recipient of the pension has pension rights in relation to any of the following funds, that is to say, the Bengal Military Fund and Orphans Society, the Bombay Military Fund, the Madras Military Fund, the Madras Medical Fund, or the Indian Navy Fund,

and being in either case service which ended before the fifteenth day of August nineteen hundred and forty-seven, or the termination of which is attributable to the passing of the Indian Independence Act, 1947.

(2) Rules to be made by the Treasury may make provision for any pension to which this section applies being increased, in respect of any period, whether falling before or after the passing

10 & 11 Geo. 6.
c. 7.
7 & 8 Geo. 6.
c. 21.

of this Act, beginning on or after the first day of December, nineteen hundred and forty-six, by a like amount to that by which it would have been increased by virtue of the Pensions (Increase) Act, 1947, if it were such a pension as is specified in the First Schedule to the Pensions (Increase) Act, 1944, which had been increased in accordance with the provisions of the last mentioned Act as originally enacted.

(3) Any such rules may provide for the method of calculation of any increase and as to the manner in which the increase is to be paid, and may provide for any increase under the rules to be defrayed out of moneys provided by Parliament.

Special provisions as to local government superannuation schemes during periods of emergency.

6.—(1) If at any time it appears to the Minister of Health to be expedient in the national interest to encourage the taking of action for either of the following purposes (hereinafter in this section referred to as "emergency purposes"), that is to say, for the purpose of temporarily reducing expenditure or for the purpose of making persons engaged in employment by virtue of which they are contributory employees or local Act contributors under a local authority available for other employment, he may direct that such period as may be specified by him in the direction shall be treated as a period of emergency for the purposes of this section, and any period so specified is hereafter in this section referred to as "the period of emergency."

(2) The subsequent provisions of this section shall have effect in relation to any person (hereafter in this section referred to as "a person to whom this section applies") in relation to whom the following conditions are fulfilled, that is to say—

- (a) that, having been engaged in employment by virtue of which he is a contributory employee or local Act contributor under a local authority, he ceases at any time during the period of emergency to be so employed; and
- (b) that the local authority under whom he was such an employee or contributor certifies that the cessation of his employment is due to action taken for emergency purposes; and
- (c) that he has not at any time since ceasing to be so employed made a claim under section ten of the Local Government Superannuation Act, 1937, or under any corresponding provision of a local Act scheme, for the return of contributions made by him for superannuation purposes:

Provided that where in any particular case the local authority refuse to certify as aforesaid, the person concerned may appeal to the Minister of Health, and the Minister of Health, if he thinks fit, may grant such a certificate, and the like consequences shall in that case ensue as if the certificate had been granted by the local authority.

(3) The following provisions of the Local Government Superannuation Act, 1937, that is to say—

- (a) subsection (7) of section ten (which provides that, unless a claim is made, an administering authority shall not be under an obligation to make payments by way of a return of contributions until the expiration of one year from the date of the cessation of employment) ;
- (b) section thirteen (which relates to the reckoning of service of a contributory employee or local Act contributor under a local authority who ceases to be employed by that authority but within twelve months after so ceasing becomes a contributory employee under another local authority, or of a contributory employee under a local authority who ceases to be employed by them but within twelve months after so ceasing again becomes such an employee under them) ;
- (c) subsection (1) of section twenty-nine (which relates to the payment of transfer values in respect of a contributory employee or local Act contributor under a local authority who ceases to be employed by them but within twelve months after so ceasing becomes such an employee or contributor under another local authority) ; and
- (d) the definition of “ disqualifying break of service ” in subsection (1) of section forty,

and any corresponding provision of a local Act scheme, shall have effect as if for any reference (however expressed) to a period of twelve months from the date of cessation of employment there were substituted, in relation to a person to whom this section applies, a reference to a period of five years from the date of cessation of employment, or such longer period as the Minister of Health may, in any particular case, allow.

(4) Where at any time during the relevant period under the last preceding subsection, and without having again become a contributory employee or local Act contributor, a person to whom this section applies—

- (a) is sixty or more years of age and either has, or, if he had not ceased to be such an employee or contributor, would have, completed forty years' service ; or
- (b) attains the age of sixty-five years and, if he had not ceased as aforesaid, would, on attaining that age, have completed ten years' service,

he may apply to the local authority under whom he was last such an employee or contributor, and if that authority are satisfied that the provisions of this subsection are applicable in his case, he shall, notwithstanding that he had not at the date when he ceased to be such an employee or contributor

attained the required age or completed the required service, be deemed to have become entitled to receive a superannuation allowance upon ceasing to be a contributory employee or local Act contributor under that authority, and the Local Government Superannuation Act, 1937, or the local Act scheme shall have effect, and any benefits to or in respect of him shall be payable, accordingly :

Provided that no payment shall be made in respect of the period between the date when he ceased to be a contributory employee or local Act contributor and the date of his application under this subsection.

(5) Where a person to whom this section applies has, before the expiration of the relevant period under subsection (3) of this section, again become a contributory employee or local Act contributor under a local authority, then if—

- (a) any event occurs by virtue of which a pension would but for the fact that he has not completed a specified number of years service, be payable to or in respect of him under the Local Government Superannuation Act, 1937, or the local Act scheme ; and
- (b) he would, if he had not ceased to be such an employee or contributor owing to action taken for emergency purposes, have completed the aforesaid service by the date of the happening of the event,

a pension shall, notwithstanding the fact that he has not completed the aforesaid service, be deemed to be payable to or in respect of him on the happening of the said event and the said Act or scheme shall have effect accordingly.

(6) In its application to Scotland, this section shall have effect as if for references to the Local Government Superannuation Act, 1937, and to, or to any subsections of, sections ten, thirteen, twenty-nine and forty thereof there were respectively substituted references to the Local Government Superannuation (Scotland) Act, 1937, and to, or to those subsections of, sections ten, thirteen, twenty-four and thirty-four thereof, and as if for references to the Minister of Health there were substituted references to the Secretary of State.

7.—(1) If any body, being either—

- (a) a body representative of local authorities ; or
- (b) a body representative of local authorities and officers of local authorities ; or
- (c) a body representative of officers of local authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government,

makes application for the purpose to a local authority who are for the time being required to maintain a superannuation fund

Power to extend Local Government Superannuation Act, 1937 or Local Government Superannuation (Scotland) Act, 1937 to employees of certain associations.

under Part I of the Local Government Superannuation Act, 1937, or under Part I of the Local Government Superannuation (Scotland) Act, 1937, the authority may, on such terms and conditions as they think fit, and with the approval of the Minister of Health, or, as the case may be, the Secretary of State, admit any employee of that body to participate in the benefits of the fund, and in that event the said Act shall have effect in relation to the body and any employee so admitted as if the body were a local authority and the employee were a contributory employee, and the body shall have all such powers as may be necessary for the purpose of giving effect to the terms and conditions approved by the Minister of Health or the Secretary of State.

(2) Where a person who—

(a) has at any time been, for a continuous period of not less than three years, in the employment of a body any of the employees of which have been admitted under subsection (1) of this section to participate in the benefits of a superannuation fund maintained by a local authority; but

(b) left that employment before the date when employees of that body were first admitted as aforesaid (hereinafter in this section referred to as "the date of admission"), is at the date of admission, or thereafter becomes, a contributory employee or a local Act contributor under any local authority, there shall be taken into account in reckoning his non-contributing service or his service for the purposes of the local Act scheme so much, if any, of the period of his employment by the body as the local authority under whom at the date of admission he is, or, as the case may be, the first local authority under whom he thereafter becomes, such an employee or contributor may, within one year from the date of admission or, as the case may be, the date upon which he becomes such an employee or contributor, determine.

(3) The last preceding subsection shall have effect in relation to an association of local authorities or of officers of local authorities any of the employees of which have been admitted under any provision of a local Act similar in effect to subsection (1) of this section to participate in the benefits of a superannuation fund maintained by a local authority, subject to the following modifications, that is to say—

(a) the reference in the last preceding subsection to subsection (1) of this section shall be construed as a reference to that provision of that local Act; and

(b) in any case where the date of admission is before the date of the passing of this Act, for any reference in the last preceding subsection to the date of admission (except in paragraph (b) thereof) there shall be substituted a reference to the date of the passing of this Act.

Amendment
of Teachers
(Superannua-
tion) Act,
1925, s. 3.
15 & 16 Geo. 5.
c. 59.

8.—(1) In subsection (1) of section three of the Teachers (Superannuation) Act, 1925 (which requires the Minister of Education to grant superannuation allowances as thereafter provided in that section to the teachers specified in that subsection), there shall be substituted for paragraph (c) the following paragraph, that is to say—

“(c) has attained the age of sixty years and has, either since the date of commencement of the first period during which he was employed in contributory or recognised service or since the date of commencement of any later period during which he was so employed—

(i) been employed for not less than ten years in such service ; and

(ii) been so employed for periods equal in the aggregate to not less than two-thirds of the number of years between the relevant date of commencement aforesaid and the date on which he attained or will attain the age of sixty-five years ; or ”

(2) The said Act shall be deemed always to have had effect as amended by this section :

Provided that where, but for this proviso, by virtue of the preceding provisions of this section the date from which an annual superannuation allowance would have begun to accrue, or the date on which an additional allowance would have become due, falls before the date of the passing of this Act, the said allowance shall be deemed not to have begun to accrue, or, as the case may be, to have become payable, until the said date of the passing of this Act.

8 & 9 Geo. 6.
c. 14.

(3) Where a person who, at any time between the date of the commencement of the Teachers (Superannuation) Act, 1945, and the date of the passing of this Act, has been employed in contributory service by a local authority or by the managers or governors of a school maintained by a local education authority under the Education Acts, 1944 and 1946—

(a) was employed before the date of commencement of the said Act of 1945 in any service in respect of which he was entitled to make an application under section five of the said Act of 1945 that that service should be treated for the purposes of the Teachers (Superannuation) Act, 1925, as if it had been contributory service or recognised service ; and either

(b) failed before the passing of this Act to make such an application ; or

(c) upon making such an application, requested that his service before a date specified by him should not be so treated as aforesaid,

and where, if it were so treated as aforesaid, that service before the date of the commencement of the said Act of 1945 or any part of that service, or as the case may be, that service before the said date so specified by him or any part thereof—

(i) if the preceding provisions of this section had not been passed, would or might ; but

(ii) by reason of the passing of the said provisions, could not, result in that person being prevented from being or becoming entitled to a superannuation allowance under section three of the Teachers (Superannuation) Act, 1925, that person may, within the period of six months from the date of the passing of this Act or within such longer period as the Minister of Education may in any particular case allow, make application under the said section five, or, as the case may be, make a new application thereunder in the manner prescribed for the purposes of that section in lieu of that previously made, and the said section five shall have effect, subject to any necessary adjustments in respect of payments of appropriate contributions already made, as if the relevant period under this subsection were the time prescribed for the making of applications under that section.

9.—(1) The purposes for which the Minister of Education may make schemes under subsection (1) of section twenty-one of the Teachers (Superannuation) Act, 1925, shall include the following purpose, that is to say, for applying the provisions of Part II of the said Act, with such modifications as may seem to the Minister desirable, to persons employed, whether in England or Wales or elsewhere, in the capacity of teachers or in some other capacity connected with education which to a substantial extent involves the control or supervision of teachers—

Provisions as
to Teachers
(Superannua-
tion) Act,
1925, s. 21.

- (a) in the naval, military or air forces of the Crown or any of the women's services mentioned in the First Schedule to the Superannuation Act, 1946 (other than persons who hold a permanent commission in any of those forces or services) ; or
- (b) in the employment of a body in respect of whose expenditure a grant is made out of moneys provided by Parliament from or by some Department of His Majesty's Government in the United Kingdom, other than the Ministry of Education and a Department of the Secretary of State for Scotland.

(2) The said subsection (1) shall have effect and be deemed always to have had effect as if for the words "Government Departments in England or Wales" there were substituted the words "Government Departments of His Majesty's Government in the United Kingdom (other than a Department of the Secretary of State for Scotland)", and it is hereby declared that

the power to make schemes under the said section twenty-one includes, and has always included, power to frame any such scheme so as to apply to service before the making of the scheme.

Amendment
of Teachers
(Superannua-
tion) Act,
1945, s. 3.

10. Section three of the Teachers (Superannuation) Act, 1945 (which provides that a person in contributory service shall not be subject to an independent superannuation scheme, as there defined) shall, in relation to any person who becomes employed in contributory service after the passing of this Act, have effect as if for subsection (2) of that section (which relates to persons becoming employed in contributory service who, but for the said provision, would be subject to such a scheme) there were substituted the following subsection, that is to say—

“(2) Where a person who becomes employed in contributory service after the commencement of this Act—

(a) has, not more than one year before he so becomes employed in contributory service, been subject to an independent superannuation scheme; and

(b) would, but for the fact that the service in which he so becomes employed is contributory service, be subject to such a scheme in respect of that service,

the service in which he so becomes employed shall not be treated as contributory service and he shall be subject to the independent superannuation scheme accordingly:

Provided that if any person who is subject to an independent superannuation scheme by virtue of the foregoing provisions of this subsection elects, by notice in writing to the Minister and to the body administering the scheme given within three months of the date of his becoming employed in contributory service, or within such longer period as the Minister may in any particular case allow, to withdraw from the scheme, the said provisions shall not have effect in relation to any service in which he is employed after the election takes effect.”

Power to
extend
definition of
approved
external
service.

11.—(1) The Minister of Education may, with the consent of the Treasury, by rules provide that, for the purposes of section thirteen of the Teachers (Superannuation) Act, 1925 (which relates to the treatment of approved external service as contributory service in certain circumstances), any specified employment, whether before or after the passing of this Act, in the service of the government of, or of any public authority in, any part of His Majesty's dominions (as defined for the purposes of subsection (1) of section twenty-one of that Act), being employment which is or was pensionable or in respect of which contributions are or were payable to a provident fund, shall be treated as approved external service.

(2) Any such rules may include provisions modifying the said section thirteen in its application to any particular form of employment which under the rules is to be treated as approved external service for the purposes of that section.

12.—(1) Where the Minister of Education is satisfied with respect to service in any particular appointment in an educational service that it is not service as a teacher and is not service which to a substantial extent involves the control or supervision of teachers, but that it is service in the performance of which teaching experience is of value, he may approve service in that appointment for the purposes of this subsection; and if any person is employed after the commencement of this Act in that appointment, his said employment after the commencement of this Act shall, if he makes application to the Minister of Education for that purpose within the time and in the manner prescribed by rules under section seventeen of the Teachers (Superannuation) Act, 1925, be treated for the purposes of that Act as if it were employment as a teacher in contributory service, and references in the said Act to teachers and to contributory service shall be construed accordingly:

Superannua-
tion of certain
persons
serving in the
educational
services
otherwise than
as teachers.

Provided that the employment of a person shall not be treated as employment in contributory service by virtue of this subsection unless he has previously been employed for not less than three years, whether in England or Wales or elsewhere and whether before or after the commencement of this Act, as a teacher in a capacity approved by the Minister of Education.

(2) Where, under the Teachers Superannuation (War Service) Act, 1939, a period of war service is treated for the purposes of Part II of the Teachers (Superannuation) Act, 1925, as if it were a period of contributory service, or where, under the Scottish Teachers Superannuation Scheme, a period of war service is treated as service for the purposes of that scheme, that period of war service shall also be treated as if it were a period of service as a teacher in a capacity approved by the Minister of Education for the purposes of this section, of section two of the Teachers (Superannuation) Act, 1945, and of section fourteen of the said Act of 1925.

(3) The last preceding subsection shall, in relation to the said section two and the said section fourteen, be deemed to have had effect as from the passing of the said Act of 1945.

(4) Subsection (3) of section two of the Teachers (Superannuation) Act, 1945, is hereby repealed.

13. Whereas under subsection (3) of section one of the Criminal Justice Act, 1925, arrangements were made for the establishment of a superannuation fund for certain probation officers;

Probation
Officers.

And whereas payments have been and, until the winding-up thereof, will continue to be made into the said fund in respect of persons who, having been such probation officers as aforesaid, are seconded to other service ;

10 & 11 Geo. 6.
c. 38.

And whereas it is expedient to make provision for securing the pension rights of such persons as aforesaid as are still seconded at the date of the making of an order under the Probation Officers (Superannuation) Act, 1947, applying the provisions of the Local Government Superannuation Act, 1937, or of a local superannuation enactment, to probation officers ;

Now therefore—

(1) Notwithstanding anything in section one of the Probation Officers (Superannuation) Act, 1947, an order under that section may provide—

- (a) for a part of the said superannuation fund being paid to a special fund to be constituted by or under the order, for the management of the said special fund and the investment of the assets thereof, and for the application thereof, in such manner as may be specified in the order, with a view to securing the pension rights of the said persons in respect of service before the date when they cease to be seconded ;
- (b) for requiring such payments to be made into the said special fund by the persons aforesaid while still seconded and by their employers for the time being as may be specified in the order ;
- (c) for applying 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 the Secretary of State thinks fit, to such persons as aforesaid when they cease to be seconded ;
- (d) for transferring to such superannuation funds maintained under the said Act of 1937 or under a local superannuation enactment as may be specified in or under the order the liabilities of the said special fund in respect of payments of pensions to persons who become entitled to receive them on or before ceasing to be seconded ;
- (e) for the payment out of moneys provided by Parliament into the said special fund of sums necessary to make good any amount by which that fund is insufficient for the purpose of making any payment necessary for securing the pension rights of the persons aforesaid ;
- (f) for the winding up of the said special fund after all the persons aforesaid have ceased to be seconded, and for the payment into the Exchequer of any amount remaining after the payment of the expenses of the winding-up :

Provided that any order providing for payments out of moneys provided by Parliament shall only be made with the consent of the Treasury.

In this subsection, the expression "local superannuation enactment" has the meaning assigned to it by subsection (5) of section one of the Probation Officers (Superannuation) Act, 1947.

(2) 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 while seconded as aforesaid.

(3) For the purposes of section two of this Act, the employment of the persons aforesaid while they are still seconded shall be deemed to be pensionable employment.

14. The power conferred by paragraph 14 of the Fourth Schedule to the Children and Young Persons Act, 1933, or by paragraph 14 of the Second Schedule to the Children and Young Persons (Scotland) Act, 1937, on the managers of an approved school officers. 23 & 24 Geo. 5. c. 12. 1 Edw. 8 & 1 Geo. 6. c. 37.
to pay or contribute towards the payment of superannuation allowances or gratuities to or to the dependants of certain officers, shall be construed as including power to pay or contribute towards the payment of such allowances or gratuities in the case of persons who cease to be officers in the service of the school in order to enter into pensionable employment of a class referred to in subsection (2) of section two of this Act, or to pay or contribute towards the payment of transfer values or other similar payments in respect of those persons, and the reference in the proviso to each of the said paragraphs to payments or contributions in respect of any superannuation allowance or gratuity shall be construed as including a reference to payments or contributions under this section, and the powers to make rules conferred by those provisos shall be extended accordingly.

15.—(1) Any rules under this Act may contain such consequential and incidental provisions as appear to the authority making the rules to be necessary or expedient, including provisions requiring the giving of information and the production of documents, and provisions repealing, revoking, varying or applying any statutory provision relating to the subject matter of the rules; and any such rules may make different provision for different cases or classes of cases. General provisions as to rules under this Act.

(2) Any power conferred by this Act to make rules shall be exercisable by statutory instrument, and any statutory instrument made in the exercise of any such power shall be subject to annulment by resolution of either House of Parliament.

(3) Anything which the Secretary of State is empowered by this Act to do by rules in relation to the Scottish Teachers

Superannuation Scheme may be done by such rules or by amendment of the said scheme under section one hundred and one of the Education (Scotland) Act, 1946.

Financial provisions .

16. Any increase attributable to the provisions of this Act or of any rules made thereunder in the sums which are payable out of moneys provided by Parliament under the Superannuation Acts, 1834 to 1946, the Teachers (Superannuation) Acts, 1918 to 1946, or the Education (Scotland) Act, 1946, shall be defrayed out of moneys so provided.

Interpretation .

17.—(1) In this Act, except so far as the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

“civil servant” means a person serving in an established capacity in the permanent civil service of the State within the meaning of section seventeen of the Superannuation Act, 1859 ;

22 Vict c. 26.

“service to the State in an unestablished capacity” means employment in the civil service of the State otherwise than as a civil servant, being employment to which the person serving therein is required to devote his whole time, and the remuneration for which is paid entirely out of moneys provided by Parliament ;

“contributory employee”, “local Act scheme”, “local Act contributor” and “local authority” have, in relation to England and Wales, the same meanings as in the Local Government Superannuation Act, 1937, and, in relation to Scotland, the same meanings as in the Local Government Superannuation (Scotland) Act, 1937 ;

“metropolitan police staff” means persons in employment—

(a) under the Commissioner of Police of the Metropolis or the Receiver for the Metropolitan Police District, otherwise than as constables ;

(b) as members of the staff of the metropolitan police courts, otherwise than as metropolitan police magistrates ;

“pension”, in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto ;

“pension fund” means a fund established for the purpose of paying pensions and includes the Metropolitan Police Fund and, in relation to the Superannuation Acts,

1834 to 1946, and the Teachers (Superannuation) Acts, 1918 to 1946, the Exchequer, and, in relation to the Education (Scotland) Act, 1946, the Education (Scotland) Fund ;

“ pension rights ” includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person ;

“ pension scheme ” includes any form of arrangements for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise ;

“ pensionable employment ” means employment which is relevant in relation to the pension rights of the person employed, and includes all such employment, whether or not for a period sufficient to render him entitled to, or eligible for, the payment of a pension to or in respect of him ;

“ Scottish Teachers Superannuation Scheme ” has the meaning assigned by section one hundred and forty-three of the Education (Scotland) Act, 1946, to the expression “ Teachers Superannuation Scheme ” ;

“ statutory provision ” means a provision, whether of a general or special nature, contained in or in any document made or issued under any Act, whether of a general or special nature ;

“ War Agricultural Executive Committee ” has the same meaning as in the Agriculture (Miscellaneous War Provisions) Act, 1940.

3 & 4 Geo. 6.
c. 50.

(2) 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.

18. This Act may be cited as the Superannuation (Miscellaneous Provisions) Act, 1948.

SCHEDULE.

PART I.

Amendments of the Local Government Staffs (War Service) Act, 1939.

1. Where a person serving in any superannuable capacity specified in the first column of the Schedule to the Act ceased so to serve in order to undertake war service and had not then attained the age of eighteen years, and, if he had attained that age, any of his service before the date of the cessation would have been contributing service or service for the purposes of a local Act scheme, then, if he attains that age while in war service, he shall be entitled to reckon so much of his war service as falls after the attainment of that age as contributing service or service for the purposes of that local Act scheme, and section four of the Act shall have effect in respect of that part of his war service as if he had not ceased to serve as aforesaid in order to undertake war service until immediately after the date upon which he attains that age.

2. Where a person serving in any superannuable capacity specified in the first column of the Schedule to the Act ceased so to serve in order to undertake war service and had not then attained the age of eighteen years, and the provisions of paragraph 1 of this Part of the Schedule do not apply, the period of his war service shall be taken into account for superannuation purposes in the same manner and to the same extent, if any, as it would have fallen to be taken into account if he had continued to serve in the same superannuable capacity as aforesaid throughout the period of his war service.

3. Where a person serving in a temporary capacity as a whole time officer of a local authority, being an authority specified in Part I of the First Schedule to the Local Government Superannuation Act, 1937, ceased so to serve in order to undertake war service and had then attained the age of eighteen years but was not then a contributory employee or a local Act contributor, and, if he had not ceased so to serve, he would have become a contributory employee or a local Act contributor on some date falling within the period of his war service, he shall be entitled to reckon so much of his war service as falls after the said date as contributing service or as service for the purposes of the local Act scheme, and section four of the Act shall have effect in respect of that part of his war service as if he had not ceased to serve as aforesaid in order to undertake war service until immediately after the said date.

4. It is hereby declared that where, under section three of the Act, the period of a person's war service falls to be aggregated with the period of his service in his civil capacity, then, for the purposes of sections thirteen and twenty-nine of the Local Government Superannuation Act, 1937, he shall not be deemed to have ceased to be employed by the authority by whom he was employed immediately before he undertook his war service until the expiration of his war service or, if before the expiration of his war service he makes a claim

under section ten of the last mentioned Act for the return of contributions made by him for superannuation purposes, until the date on which the claim is made, and references in the said sections thirteen and twenty-nine to the cessation of his employment by that authority shall be construed accordingly.

5. Where a person who is in war service immediately before the end of the present emergency continues in the same service after the end thereof, the said service continued as aforesaid shall all be treated as war service for the purposes of the Act :

Provided that, except where the said person continues his war service in pursuance of a legal obligation so to do arising otherwise than by reason of a voluntary undertaking by him to continue it, the local authority by whom he was employed immediately before he undertook his war service may at any time by notice in writing given to him notify him that his war service for the purposes of the Act will be deemed to cease three months after the date of the service of the notice, and unless the authority withdraw their notice the said war service shall be deemed to cease accordingly.

6. The provisions of this Part of this Schedule shall be deemed always to have had effect and all necessary adjustments shall be made accordingly.

7. In its application to Scotland, this Part of this Schedule shall have effect as if for references to the Local Government Superannuation Act, 1937, and to sections ten, thirteen and twenty-nine thereof, there were respectively substituted references to the Local Government Superannuation (Scotland) Act, 1937, and to sections ten, thirteen and twenty-four thereof.

PART II.

Amendments of the Teachers Superannuation (War Service) Act, 1939.

1.—(1) In paragraph (b) of subsection (3) of section two (which relates to the employer's contributions which must be paid by persons undertaking war service before completing their training as teachers or before becoming employed in contributory service if their war service is to count as contributory service) after the words "such amount" there shall be inserted the words "(not exceeding two and a half per cent. of the amount of his said salary as a teacher)".

(2) Sections two and three shall have effect as if section two had been enacted as amended by this paragraph.

2. After section seven the following section shall be inserted—

"7A. Where a person employed as a teacher in contributory service ceases to be so employed by reason that he is interned by the enemy or by a neutral power, this Act shall have effect as if he had ceased to be so employed in order to undertake war service and as if his war service had continued for the period of his internment."

3.—(1) Where a person who is in war service immediately before the end of the period of the present emergency continues in the same service either with the consent of his former employer (as defined for the purposes of the Act) or in pursuance of a legal obligation so to do arising otherwise than by reason of his voluntary continuance of his

service, the said service continued as aforesaid shall all be treated as war service for the purposes of the Act; and section nine of the Teachers (Superannuation) Act, 1945 shall be construed accordingly.

(2) Where a person who is in war service immediately before the end of the period of the present emergency continues in the same service after the end thereof in pursuance of a legal obligation so to do arising by reason of his voluntary continuance of his service without the consent of his former employer, nothing in section nine of the Teachers (Superannuation) Act, 1945 shall be construed as enabling so much of the said service continued as aforesaid as falls after the end of the period of the present emergency to be treated as part of his period of war service.

4. The Act shall apply to a person whose employment is treated by virtue of section two of the Teachers (Superannuation) Act, 1945, as if it were employment as a teacher in contributory service as it applies to such a teacher, and any reference in the Act to a teacher or to contributory service shall be construed accordingly.

5. Notwithstanding anything in section eleven of the Act, the expression "contributory service", wherever used in the Act, shall, in relation to service after the commencement of the Teachers (Superannuation) Act, 1945, be construed, save where the context otherwise requires, as having the meaning assigned to it by subsection (1) of section one of the last mentioned Act.

6. The provisions of this Part of this Schedule shall be deemed always to have had effect, and all necessary adjustments shall be made accordingly.

PART III.

Amendments of the Education (Scotland) (War Service Superannuation) Act, 1939.

1. In section seven, at the end of the definition of "war service", the following words shall be inserted and shall be deemed always to have formed part of the definition—"and includes internment by the enemy or by a neutral power".

2. Where a person who is in war service immediately before the end of the present emergency continues in the same service either with the consent of the education authority, governing body or other body of managers by whom he was employed immediately before undertaking war service or in pursuance of a legal obligation so to do arising otherwise than by reason of his voluntary continuance of his service, the said service continued as aforesaid shall all be treated as war service for the purposes of the Act.

3. Where a person who is in war service immediately before the end of the period of the present emergency continues in the same service after the end thereof in pursuance of a legal obligation so to do arising by reason of his voluntary continuance of his service without the consent of the education authority, governing body or other body of managers by whom he was employed immediately before undertaking war service, nothing in the definition of "period of war service" in section seven of the Act shall be construed as enabling so much of the said service continued as aforesaid as falls after the end of the period of the present emergency to be treated as part of his period of war service.

CHAPTER 34.*Motor Spirit (Regulation) Act, 1948.*

ARRANGEMENT OF SECTIONS.

Section.

1. Offences by retailers of motor spirit.
2. Offences by private motorists.
3. Other offences.
4. Disqualification of retail dealers for twelve months after conviction.
5. Disqualifications and special penalties in respect of offences by private motorists.
6. Provisions as to appeals.
7. Power to remove disability, and disqualification.
8. Penalties.
9. Institution of proceedings.
10. Power of entry and taking of samples.
11. Analyst's certificate to be evidence.
12. Regulations.
13. Interpretation.
14. Application to Scotland.
15. Application to Northern Ireland.
16. Short title, extent and duration.

An Act to create certain offences in connection with the supply and use of motor spirit, and for purposes connected therewith. [28th May 1948.]

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) Every person who carries on the business of supplying motor spirit by retail shall cause all pumps used for the purpose of such supply to be marked in the prescribed manner either with the word "Commercial" or with the word "Private," and if any such person supplies motor spirit by retail from a pump which is not so marked he shall be guilty of an offence. Offences by retailers of motor spirit.

(2) If any such person as aforesaid—

- (a) has in any such pump which is not marked with the word "Commercial" as aforesaid motor spirit which contains any of the prescribed ingredients (hereafter in this Act referred to as "commercial petrol"); or
- (b) supplies commercial petrol into the tank of a motor vehicle of such class or description as may be prescribed (hereafter in this Act referred to as a "private motor vehicle");

he shall be guilty of an offence:

Provided that it shall be a defence—

- (i) for any person charged with the offence mentioned in paragraph (a) hereof to prove that the commercial petrol was put into the pump without his consent or connivance or without his knowing that it was commercial petrol, and that he exercised all reasonable diligence to prevent the petrol being put into the pump, and, if he afterwards discovered its presence in the pump, that he forthwith took all reasonable steps to secure the removal of the petrol or the marking of the pump with the word “ Commercial ”;
- (ii) for any person charged with the offence mentioned in paragraph (b) hereof to prove that the commercial petrol was supplied without his consent or connivance and that he exercised all reasonable diligence to prevent such supply or to prove that the person who put the petrol into the tank of the vehicle (whether it was the person charged or another person) acted in the reasonable belief that it was not a private motor vehicle.

Offences by
private
motorists.

2.—(1) If at any time commercial petrol is present in the tank of a private motor vehicle, the owner of the vehicle and the person (if he is a different person) then in charge of the vehicle shall each be guilty of an offence:

Provided that it shall be a defence for any person charged with such an offence to prove—

- (a) that he was not present or in charge of the vehicle when the petrol was put into the tank, and that it was put into the tank without his consent or connivance; or
- (b) that he was present or in charge of the vehicle when the petrol was put into the tank, but that he did not know that it was commercial petrol and did not neglect to take any step which in the circumstances he might reasonably have been expected to take to prevent such petrol being put into the tank.

(2) If any person acquires any commercial petrol for use in a private motor vehicle, he shall be guilty of an offence:

Provided that it shall be a defence for any person charged with such an offence to prove—

- (a) that the petrol was acquired without his knowing that it was commercial petrol; and
- (b) that he did not neglect to take any step which in the circumstances he might reasonably have been expected to take to prevent the acquisition of the petrol.

3.—(1) If any person—

Other
offences.

- (a) puts commercial petrol into a pump used for the purpose of the supply by retail of motor spirit, not being a pump marked in the prescribed manner with the word "Commercial";
- (b) puts commercial petrol into the tank of a private motor vehicle in circumstances which do not make him guilty of an offence under section one of this Act;
- (c) removes from any commercial petrol any of the prescribed ingredients;
- (d) adds any ingredients to any commercial petrol with a view to neutralising, disguising, or producing any chemical change in, any of the prescribed ingredients;
- (e) adds any of the prescribed ingredients to any motor spirit; or
- (f) except in such cases and subject to such conditions as may be prescribed, adds to any motor spirit or removes from any commercial petrol any red colouring matter of a prescribed description;

he shall be guilty of an offence:

Provided that

- (i) it shall be a defence for any person charged with the offence mentioned in paragraph (b) hereof to prove that he acted in the reasonable belief that the vehicle was not a private motor vehicle; and
- (ii) anything done by a person authorised by the Minister of Fuel and Power or the Petroleum Board or done for the purposes of the enforcement of this Act or in connection with any proceedings in respect of an offence under this Act shall not constitute any such offence as is mentioned in paragraph (c), paragraph (d), paragraph (e) or paragraph (f) hereof.

(2) Where the owner or the person in charge of a private motor vehicle discovers that commercial petrol is in the tank of the vehicle he shall, notwithstanding that the circumstances afford him a good defence to a charge under section two of this Act, take steps, as soon as is reasonably practicable, to remove the petrol from the tank, and if he fails to do so, he shall be guilty of an offence.

4.—(1) If any person who carries on the business of supplying motor spirit by retail is convicted of the offence mentioned in paragraph (a) of subsection (2) of section one of this Act, then, subject as hereinafter provided, he shall not, for a period of twelve months after the conviction, carry on at

Disqualifica-
tion of retail
dealers for
twelve months
after
conviction.

the premises where the offence occurred the business of acquiring and selling motor spirit, or be concerned in any manner whatsoever, whether directly or indirectly, in the carrying on of such a business at those premises, and the court by which he was convicted may order that any motor spirit at those premises belonging to that person shall be forfeited to the Crown.

(2) If any such person as aforesaid is convicted of the offence mentioned in paragraph (b) of subsection (2) of section one of this Act, then, subject as hereinafter provided, he shall not, for a period of twelve months after the conviction, carry on at the premises where the offence occurred the business of acquiring and selling commercial petrol, or be concerned in any manner whatsoever, whether directly or indirectly, in the carrying on of such a business at those premises, and the court by which he was convicted may order that any commercial petrol at those premises belonging to that person shall be forfeited to the Crown.

(3) If any such person as aforesaid is convicted of the offence mentioned in paragraph (c) or the offence mentioned in paragraph (d) of section three of this Act, or of aiding, abetting, counselling or procuring the commission of such an offence, then, subject as hereinafter provided, he shall not, for a period of twelve months after the conviction, carry on at any premises the business of acquiring and selling motor spirit, or be concerned in any manner whatsoever, whether directly or indirectly, in the carrying on of such a business at any premises, and the court by which he was convicted may order that any motor spirit belonging to that person shall be forfeited to the Crown.

(4) Any person who contravenes any of the preceding provisions of this section shall be guilty of an offence.

(5) The court by which any such person as aforesaid is convicted of such an offence as is mentioned in any of the first three subsections of this section, shall inform that person of the disability imposed on him by the subsection in question.

(6) Where any person gives notice of appeal against his conviction for any such offence as is mentioned in any of the first three subsections of this section, the court by which he was convicted or any court of summary jurisdiction for the same petty sessional division or place as that court or the court to which the appeal is to be made may, if it thinks fit, pending the appeal by order suspend the operation of that subsection in relation to that conviction, and, if it does so and the appeal is dismissed or abandoned, this section shall have effect as if for the references to a period of twelve months after the conviction there were substituted references to a period of twelve months

after the dismissal or abandonment of the appeal less the period (if any) between the date of the conviction and the date of the order of the court under this subsection.

For the purposes of this subsection, the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal.

(7) Where any person would, by reason of the disability imposed by any of the first three subsections of this section, be prohibited from carrying on the business of acquiring and selling motor spirit, or acquiring and selling commercial petrol, as the case may be, at any premises, and the court by which that person was convicted is satisfied, on his application, that it is expedient in the public interest, by reason that other facilities for acquiring motor spirit or, as the case may be, commercial petrol are not available within a reasonable distance, not being less than five miles by road, of those premises, that he should be permitted to carry on the said business at those premises, the court may direct that the said disability shall not have effect or, in the case of a disability imposed under subsection (3), shall not have effect as respects those premises, and in that case the said person shall, without prejudice to the imposition of any penalty under the following provisions of this Act, forfeit the following sums:—

- (a) in a case where the disability arises under subsection (1) or subsection (3), the sum of two hundred and fifty pounds for each pump in use at or about the time of the commission of the offence for supplying motor spirit; or
- (b) if the disability arises under subsection (2), the sum of one hundred and twenty-five pounds for each pump in use at or about the time of the commission of the offence for supplying commercial petrol;

and the payment of those sums shall be enforced and they shall be applied in the same manner as a fine imposed by the court.

5.—(1) If any person, being the owner of a private motor vehicle in respect of which he holds or ought to hold a licence under section thirteen of the Finance Act, 1920, or under that section as it applies in Northern Ireland, commits an offence under section two of this Act in respect of that vehicle and is convicted of that offence, then—

- (a) if the court decides that he remains the owner of the vehicle at the time of the conviction, any such licence which he holds in respect of the vehicle shall cease to have effect, and it shall not be lawful, for a period of

Disqualifications and special penalties in respect of offences by private motorists.
10 & 11 Geo. 5.
c. 18.

twelve months after the conviction, for him or for any other person to hold or obtain such a licence in respect of the vehicle; and

- (b) in any other case he shall, without prejudice to the imposition of any penalty under section eight of this Act, forfeit such sum as may be determined by the court to be equal to half the value of the vehicle, and the payment of that sum shall be enforced and the sum shall be applied in the same manner as a fine imposed by the court.

(2) If any person uses a private motor vehicle without such a licence as aforesaid during a period for which he is disqualified by the preceding subsection for holding or obtaining such a licence in respect of the vehicle, he shall be guilty of an offence under this Act and not under section thirteen of the Roads Act, 1920, or under that section as it applies in Northern Ireland.

(3) If any person, being the owner of a private motor vehicle in respect of which he holds or ought to hold such a licence as aforesaid, commits an offence under section two of this Act in respect of that vehicle and, while he remains the owner, is convicted of that offence, he shall forthwith produce to the court the registration book of that vehicle and, if the court makes a decision under paragraph (a) of subsection (1) of this section,—

- (a) he shall forthwith deliver to the court any licence which he holds under section thirteen of the Finance Act, 1920, or under that section as it applies in Northern Ireland, in respect of that vehicle;
- (b) the court shall order that particulars of the conviction and of the disqualification imposed by the said paragraph (a) shall be endorsed on that registration book, and if another registration book is issued in respect of that vehicle during the period of the disqualification, the particulars of the endorsement shall be copied on to that other registration book;
- (c) the court shall forward to the council of the county or county borough with whom the vehicle is registered any licence delivered under this subsection and send to that council particulars of the conviction and of the said disqualification, and for the purposes of section eighteen of the Finance Act, 1924, or section four of the Finance Act (Northern Ireland), 1924, the licence shall be deemed to have been surrendered by the holder thereof immediately before the conviction.

(4) If any person is convicted of an offence under section two of this Act, or of aiding, abetting, counselling or procuring the commission of such an offence,—

- (a) any licence held by him under Part I of the Road ^{20 & 21 Geo. 5.} Traffic Act, 1930, or Part I of the Motor Vehicles ^{c. 43.} (Traffic and Regulation) Act (Northern Ireland), 1926, as amended by any other Act of the Parliament of Northern Ireland, to drive a motor vehicle shall cease to have effect, and he shall be disqualified for holding or obtaining such a licence for a period of twelve months after the conviction;
- (b) he shall forthwith after the conviction deliver any such licence to the court, and the court shall forward the licence and send particulars of the conviction and disqualification to the council of the county or county borough by whom the licence was granted; and
- (c) the court shall, if not required to do so by the last preceding paragraph, send such particulars to the council of the county or county borough in which the convicted person resides.

(5) If any person who is disqualified under the last preceding subsection for holding or obtaining such a licence as aforesaid applies for or obtains another such licence while he is so disqualified, he shall be guilty of an offence and any licence obtained by him while so disqualified shall be of no effect, and if any person while he is so disqualified drives a motor vehicle on a road, he shall be guilty of an offence under this Act and not under section four of the Road Traffic Act, 1930, or under section three of the Motor Vehicles (Traffic and Regulation) Act (Northern Ireland), 1926.

(6) Where any person is, in consequence of his conviction for an offence, disqualified under this section for holding or obtaining a licence in respect of a private motor vehicle or for holding or obtaining a licence to drive a motor vehicle, the court by which he was convicted shall inform him of that disqualification.

(7) Any person who fails to comply with any requirement of this section as to the delivery of a licence or the production of a registration book to the court shall be guilty of an offence.

(8) Subsections (1) and (3) of this section shall not apply in relation to the conviction of any person for any offence unless either—

- (a) within twenty-eight days of the commission of the offence, notice was given to that person warning him

that the question of prosecuting him for an offence under section two of this Act would be taken into consideration; or

- (b) within three months of the commission of the offence a summons for the offence was served on that person.

Provisions as
to appeals.

6.—(1) Where any person gives notice of appeal against his conviction for an offence under section two of this Act, or of aiding, abetting, counselling or procuring the commission of such an offence, the court by which he was convicted, or any court of summary jurisdiction for the same petty sessional division or place as that court or the court to which the appeal is to be made may, if it thinks fit, by order provide for suspending the operation (so far as applicable) of paragraph (a) of subsection (1), subsection (3) and subsection (4) of the last preceding section in relation to that conviction and for requiring the return to that person of any licence delivered by him to the court by which he was convicted and for cancelling any thing done or deemed to have been done under any of the said provisions.

(2) Where an order is made under the last preceding subsection and the appeal is finally dismissed or is abandoned, a court of summary jurisdiction for the same petty sessional division or place as the court by which the said person was convicted, or any justice of the peace acting for that petty sessional division or place, shall, on the application of the prosecutor, issue a summons or, in default of appearance, a warrant requiring or compelling that person to appear before a court of summary jurisdiction for that petty sessional division or place, and thereupon—

- (a) if the order suspended the operation of paragraph (a) of subsection (1) of the last preceding section, that subsection and subsection (3) of that section shall have effect as if the said person had just been convicted by the court before which he appears; and
- (b) subsection (4) and subsection (6) of the last preceding section shall in any case have effect as if he had just been convicted by the court aforesaid:

Provided that the period of any disqualification imposed by the said paragraph (a) or the said subsection (4) shall be reduced by the period (if any) between the date of the conviction and the date of the order made under the last preceding subsection.

(3) For the purposes of this section, the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal.

(4) Any person who forfeits a sum under paragraph (b) of subsection (1) of the last preceding section may appeal against the determination of the amount to be forfeited in like manner as against the conviction.

7.—(1) Any person upon whom a disability is imposed by any of the first three subsections of section four of this Act or a disqualification is imposed by subsection (1) or subsection (4) of section five of this Act may, if the disability or disqualification has been in operation for a period of not less than six months, apply to a court of summary jurisdiction for the same petty sessional division or place as the court by which he was convicted to remove the disability or disqualification, and on any such application the court may, if having regard to the circumstances at the time of the application, the court thinks there is any good reason for shortening the term of the disability or disqualification, by order remove the disability or disqualification as from such date as may be specified in the order.

Power to
remove
disability, and
disqualifica-
tion.

(2) Where a disqualification imposed by subsection (1) of section five of this Act in respect of a motor vehicle is removed under this section, the court shall order that particulars of the removal shall be endorsed on the registration book of the vehicle, and shall send particulars of the removal to the council of the county or county borough with whom the vehicle is registered.

(3) Where the court removes the disqualification imposed by subsection (4) of section five of this Act, the court shall send particulars of the removal to any council of a county or county borough to whom particulars of the disqualification were sent, and any such council to whom a licence held by the disqualified person was forwarded under the said subsection (4) shall, on a demand in writing by the holder, return the licence to him, and if any part of the period for which the licence was issued remains unexpired, it shall have effect for that part of the period.

8.—(1) Any person who is guilty of—

Penalties.

- (a) an offence under section one or section two of this Act;
- (b) an offence under section three of this Act except an offence mentioned in paragraph (c) or (d) of that section;
- (c) an offence under subsection (7) of section five of this Act; or
- (d) an offence under section ten of this Act;

shall be liable on summary conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not

exceeding three months or to both such fine and such imprisonment.

(2) Any person who is guilty of any offence under this Act, except an offence to which the preceding subsection applies, shall be liable—

- (a) on summary conviction, to a fine not exceeding five 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 one thousand pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

(3) If the person convicted on indictment of any offence under this Act is a body corporate, the amount of the fine that may be imposed on that body corporate in respect of the offence shall not be limited, and the body corporate shall be liable to a fine of such amount as the court thinks just.

(4) If the person convicted of an offence under any provision of this Act is 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; and if the offence is one to which any provision of section four of this Act applies, he shall be deemed for the purposes of that provision to have been carrying on at the time of the commission of the offence the business of supplying motor spirit by retail at the premises where the offence occurred.

In this subsection, the expression “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

Institution of proceedings.

9. Proceedings for an offence under this Act, except subsection (4) of the last preceding section, shall not be instituted in England and Wales except by a constable or by or with the consent of the Minister of Fuel and Power or the Director of Public Prosecutions, and proceedings for an offence under

the said subsection (4) shall not be instituted except by or with the consent of the Minister of Fuel and Power or the Director of Public Prosecutions.

10.—(1) Any constable authorised by an officer of police of a rank not lower than that of superintendent and any person authorised by the Minister of Fuel and Power shall have a right, on producing, if so required, a duly authenticated document showing his authority, to enter at all reasonable hours any premises, other than premises used for the purposes of a private dwelling, for the purpose of ascertaining whether an offence under this Act is being or has been committed on or in connection with the premises or in connection with any motor vehicle or motor spirit on the premises. Power of entry and taking of samples.

(2) Any constable may, and any person authorised by the Minister of Fuel and Power as aforesaid, on producing, if so required, a duly authenticated document showing his authority, may, take samples of any motor spirit which is on premises which he has a right to enter under this section or is in a motor vehicle in any public place.

(3) Where a sample is taken by any person in the exercise of powers under this section, then—

- (a) if the sample is taken from a motor vehicle, he shall if practicable take it in the presence of the owner or person for the time being in charge of the vehicle;
- (b) if the sample is taken on premises which he has a right to enter under this section but not from a motor vehicle, he shall if practicable take it in the presence of the occupier of the premises or the person for the time being in charge thereof;

and shall, in either case, on taking the sample, then and there divide it into three parts, each part to be marked and sealed or fastened up, and shall—

- (i) deliver one part to the owner or person in charge of the vehicle or, as the case may be, the occupier or person in charge of the premises, if he so requires it;
- (ii) retain one part for future comparison; and
- (iii) if he thinks fit to have an analysis made, submit one part to an authorised analyst.

(4) Where it is not practicable to comply with the requirements of paragraph (a) or paragraph (b) of the last preceding subsection in taking a sample, notice shall be served in the prescribed manner on the owner or person in charge of the vehicle or, as the case may be, the occupier of the premises or the person for the time being in charge thereof informing him that the sample has been taken and that one part thereof is available for delivery to him, if he requires it, at such time and place as may be specified in the notice.

(5) Where the result of an analysis of a sample taken under this section is given in evidence in any proceedings in respect of an offence under this Act, the part of the sample retained for future comparison shall be produced at the hearing.

(6) The result of an analysis of a sample taken under this section shall not be admissible as evidence unless the requirements of the three last preceding subsections have been complied with in relation thereto.

(7) Any person who obstructs any person exercising powers under this section shall be guilty of an offence.

**Analyst's
certificate to
be evidence.**

11. In any proceedings in respect of an offence under this Act, a certificate purporting to be signed by an authorised analyst and certifying the ingredients of any such sample of motor spirit as may be specified in the certificate shall, subject as hereinafter provided, be evidence of the facts therein stated:

Provided that such a certificate shall not be admissible as evidence—

- (a) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or
- (b) if that person, not less than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves notice in the prescribed manner and form on the prosecutor requiring the attendance at the hearing or trial of the person by whom the analysis was made.

Regulations.

12.—(1) The Minister of Fuel and Power may by statutory instrument make regulations prescribing anything required by any provision of this Act to be prescribed.

(2) Regulations made for the purpose of defining the vehicles which are to be private motor vehicles for the purposes of this Act may provide for excluding therefrom any vehicle of a prescribed class or description if and so long as the prescribed conditions are complied with in respect of that vehicle.

(3) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation.

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

“ authorised analyst ” means the Government Chemist, any chemist authorised by the Minister of Fuel and

- Power to make analyses for the purposes of this Act, or any other person appointed under section sixty-six of the Food and Drugs Act, 1938, or section fifteen of the Food and Drugs (Adulteration) Act, 1928, as a public analyst or deputy public analyst; 1 & 2 Geo. 6. c. 56. 8 & 9 Geo. 5. c. 31.
- “ motor spirit ” has such meaning as may be prescribed;
- “ motor vehicle ” means a mechanically - propelled vehicle constructed or adapted for use on roads;
- “ owner,” in relation to a private motor vehicle, means the person in whose name the vehicle is for the time being registered under the Roads Act, 1920, except that, if that person has sold or otherwise disposed of the vehicle and the change of ownership has been notified in writing to the council of the county or county borough with whom the vehicle is registered, the person so notified as the owner of the vehicle or, if there has been more than one change of ownership, the last person so notified shall be deemed to be the owner;
- “ prescribed ” means prescribed by regulations made by the Minister of Fuel and Power under this Act;
- “ pump ” includes the tank or other receptacle from which motor spirit is drawn by the pump.

(2) References in this Act to the conviction of a person shall be construed as including references to a person being found or pleading guilty or admitting the truth of the information or to the court deciding (for the purposes of subsection (1) of section one of the Probation of Offenders Act, 1907) that 7 Edw. 7. c. 18. the charge has been proved.

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

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

(2) For any reference to a county borough there shall be substituted a reference to a burgh containing within its boundaries as ascertained, fixed and determined for police purposes, a population according to the census for the time being last taken of or exceeding fifty thousand.

(3) References to a court of summary jurisdiction for, or to a justice of the peace acting for, the same petty sessional division or place as the court by which a person was convicted shall be omitted and for any such reference in subsection (2) of section six or in section seven of this Act there shall be substituted a reference to the court by which the person was convicted.

(4) For the expression "summons" there shall be substituted,

(a) in subsection (8) of section five of this Act, the expression "complaint," and

(b) in subsection (2) of section six, the expression "citation."

(5) Any person who aids, abets, counsels or procures the commission of any offence against this Act shall be guilty of an offence and shall be liable on conviction thereof to the same punishment as might be imposed on conviction of the first-mentioned offence.

Application to
Northern
Ireland.

15.—(1) This Act shall extend to Northern Ireland with the modifications specified in the succeeding provisions of this section:

Provided that nothing in this Act shall restrict the powers of the Parliament of Northern Ireland to make laws with respect to any matter with respect to which that Parliament has power to make laws, and any laws made by that Parliament with respect to any such matters shall have effect notwithstanding anything in this Act or in any instrument made under this Act.

(2) References to a court of summary jurisdiction shall be construed as references to a court of summary jurisdiction constituted in accordance with the provisions of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935, as amended by any Act, whether past or future, of the Parliament of Northern Ireland; references to summary conviction shall be construed as references to conviction by a court so constituted; references to a petty sessional division shall be construed as references to a petty sessions district.

(3) For subsection (3) of section six the following subsection shall be substituted:—

"(3) For the purposes of this section, the bringing of proceedings before the High Court of Justice in Northern Ireland by writ of certiorari to quash a conviction or by way of case stated by a court of summary jurisdiction under section ten of the Criminal Justice Act (Northern Ireland), 1945 shall be deemed to be an appeal."

(4) The references in section nine and section ten to a constable shall be construed as references to any officer or member of the Royal Ulster Constabulary, the reference in section ten to an officer of police not below the rank of superintendent shall be construed as a reference to an officer of the Royal Ulster Constabulary not below the rank of district inspector, and the references in section nine to England

and Wales and to the Director of Public Prosecutions shall be construed as references to Northern Ireland and to the Attorney-General for Northern Ireland, respectively.

(5) The definition of " authorised analyst " in section thirteen shall be construed as including the person for the time being appointed under section two of the Administrative Provisions Act (Northern Ireland), 1928, to be the Government Chemist for Northern Ireland and as including any Public Analyst appointed under the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939, and the reference in that section to the Roads Act, 1920, shall be construed as a reference to that Act as it applies in Northern Ireland.

16.—(1) This Act may be cited as the Motor Spirit (Regulation) Act, 1948. Short title,
extent and
duration.

(2) This Act shall come into operation on the first day of June, nineteen hundred and forty-eight, and shall continue in force until such date as His Majesty may by Order in Council appoint, and shall then expire, subject to such provisions as may be contained in the Order as respects things previously done or omitted to be done.

CHAPTER 35.

Animals Act, 1948.

ARRANGEMENT OF SECTIONS.

PART I.

BOVINE TUBERCULOSIS.

Section.

1. Extension of period for payments in connection with eradication of bovine tuberculosis.

PART II.

LICENSING OF STALLIONS.

2. Keeping of stallions to be subject to licence or permit.
3. Provisions as to temporary unsuitability of a licensed stallion for breeding.
4. Power to refuse or revoke licence on ground of inferior conformation or physique.
5. Grant of permits in respect of stallions.
6. Marking of stallions.
7. Power to order slaughter or castration of stallions.
8. Time for grant of licences, and duration of licences and permits.
9. Presumptions as to licence or permit being in force, and as to age of stallions.

Section.

10. Periodical inspections.
11. Special provision for ponies in particular districts.
12. Expenses, and fines, under Part II.
13. Commencement, construction, citation and extent of Part II, and repeal.

PART III.

SHORT TITLE AND INTERPRETATION.

14. Short title and interpretation.
Schedule.—Repeals.

An Act to extend the period during which payments may be made under the Agriculture Act, 1937, in connection with the eradication of bovine tuberculosis, and to amend the Horse Breeding Act, 1918.

[30th June 1948.]

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.

BOVINE TUBERCULOSIS.

Extension of period for payments in connection with eradication of bovine tuberculosis.
1 Edw. 8 &
1 Geo. 6. c. 70.
3 & 4 Geo. 6.
c. 50.

1.—(1) The period, limited to expire on the thirtieth day of September, nineteen hundred and forty-eight, during which the Minister has power to make payments for the purpose of securing so far as practicable that herds of cattle will be free from tuberculosis (which power was conferred by subsection (1) of section twenty of the Agriculture Act, 1937, for a period extended to that day by subsection (1) of section four of the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940) shall be extended so as to continue for ten years from that day, and may be further extended for five years by order made by the Minister with the approval of the Treasury on not more than three successive occasions, so as to continue for fifteen, twenty or twenty-five years, as the case may be, from that day:

No order shall be made under this subsection unless a draft thereof has been laid before Parliament and has been approved by a resolution of each House of Parliament.

(2) The power to make orders conferred on the Minister by the preceding subsection shall be exercisable by statutory instrument.

(3) In accordance with subsection (1) of this section, section twenty-one of the Agriculture Act, 1937 (which, as amended by the said enactment of 1940, confers general power on the Minister to expend sums with the object of eradicating diseases of animals, subject to a proviso excluding the exercise of that power after

the thirtieth day of September, nineteen hundred and forty-eight, as regards payments which until that day he is empowered to make only by virtue of the said section twenty) shall have effect with the substitution, for the reference therein to that day, of a reference to the day to which the period mentioned in subsection (1) of this section is continued.

(4) Any increase attributable to this Part of this Act in the sum required by sub-paragraph (1) of paragraph 1 of the Third Schedule to the Local Government Act, 1929, as amended by subsection (4) of section twenty-seven of the Agriculture Act, 1937, to be paid out of moneys provided by Parliament into the Diseases of Animals Account to defray expenses incurred under section twenty of the Agriculture Act, 1937, shall be paid out of moneys so provided. 19 & 20 Geo. 5.
c. 17.

PART II.

LICENSING OF STALLIONS.

2.—(1) Subject to the provisions of subsection (2) of this section, it shall not be lawful for any person to keep a stallion which has attained the prescribed age unless a licence or permit in respect of the stallion is for the time being in force. Keeping of
stallions to
be subject
to licence
or permit.

(2) The preceding subsection shall not apply to—

- (a) any stallion which attained the age of four years before the coming into operation of this Part of this Act ; or
- (b) a stallion being a thoroughbred or a pony of a prescribed breed ;

but it shall not be lawful for a person who keeps a stallion which falls within paragraph (a) of this subsection, or a stallion which falls within paragraph (b) thereof and which has attained the prescribed age, to travel it for use for breeding purposes or to exhibit it on any premises not in his occupation with a view to its use for breeding purposes, or to permit it to be so travelled or exhibited, unless a licence in respect of the stallion is for the time being in force.

(3) Any person who contravenes either of the preceding subsections shall be liable on summary conviction to a fine not exceeding twenty pounds.

(4) For the purposes of this section, a person shall be deemed to keep a stallion if he owns it or has the control of it.

(5) The preceding provisions of this section shall be in substitution for section one of the Horse Breeding Act, 1918 (in this Part of this Act referred to as "the principal Act"), which section requires the licensing of stallions as regards their travelling or exhibition for service, and not as regards their being kept, and accordingly— 8 & 9 Geo. 5.
c. 13.

- (a) the power conferred on the Minister by section two of the principal Act to suspend a licence shall cease to be exercisable ;

PART II.
—cont.

- (b) a reference to use for breeding purposes shall be substituted for the references to service of mares and to use for stud purposes in the proviso to subsection (2) of that section (which specifies the grounds on which a licence may be refused or revoked) ; and
- (c) 'so much of section six of the principal Act as limits the powers of inspection and examination of stallions conferred by that section to stallions travelled or exhibited as aforesaid shall cease to have effect.

Provisions as to temporary unsuitability of a licensed stallion for breeding.

3.—(1) The Minister shall not refuse to grant a licence in respect of a stallion on the ground specified in paragraph (a) or (b) of the proviso to subsection (2) of section two of the principal Act, namely that it appears to him that the stallion is affected with a contagious or infectious disease or is affected with any other disease or defect prescribed as a disease or defect rendering the stallion unsuitable for use for breeding purposes, and he shall not revoke a licence on that ground, if it appears to him that the stallion is so affected temporarily, and accordingly the word " permanently " shall be inserted before the word " affected " in both places where it occurs in those paragraphs.

(2) If it appears to the Minister that a stallion in respect of which a licence is in force, or is about to be granted, is temporarily affected by a disease or defect rendering it unsuitable for use, or for use in any particular way, for breeding purposes, he may, by notice served in the prescribed manner, make it a condition of the licence that the stallion shall not, for a specified period or until further notice, be used, or be used in that way, as the case may be, for breeding purposes.

(3) Section four of the principal Act (under which reference to a referee may be required if the Minister refuses to grant, or revokes, a licence) shall apply, as it applies in those cases, if the Minister serves a notice in pursuance of this section.

(4) If any person allows a stallion to be used in contravention of a condition imposed in pursuance of this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Power to refuse or revoke licence on ground of inferior conformation or physique.

4. In the proviso to subsection (2) of section two of the principal Act (which specifies the grounds on which a licence may be refused or revoked), in paragraph (d), for the words " by reason of its defective conformation or physique," there shall be substituted the words " by reason of its defective or inferior conformation or physique."

Grant of permits in respect of stallions.

5.—(1) Where the Minister has refused, or has power to refuse, to grant a licence in respect of a stallion not falling within paragraph (a) or (b) of subsection (2) of section two of this Act, or has revoked or proposes to revoke a licence in respect of such a stallion, but it is in his opinion expedient to authorise it to be

kept entire, he may, on application being made in the prescribed manner and on compliance with the prescribed conditions as to inspection, examination and marking, grant to the owner of the stallion a permit in the prescribed form in respect of the stallion and also, if so requested, a certified copy thereof, on payment of such fee (not exceeding one guinea) as may be prescribed.

(2) The Minister may refuse to grant a permit on any grounds which appear to him sufficient, and may grant a permit subject to any conditions which he may think fit to impose.

(3) The Minister may revoke a permit if any condition subject to which that permit, or any other permit to the same person, has been granted is contravened or not complied with.

(4) If any condition subject to which a permit is granted is contravened or not complied with, the holder of the permit shall be liable on summary conviction to a fine not exceeding twenty pounds.

(5) Subsection (2) of section two of the principal Act (under which the grant of a licence is as of right), and section four thereof (under which reference to a referee may be required if the Minister refuses to grant, or revokes, a licence), shall not apply to a permit, but save as aforesaid the provisions of the principal Act which relate to a licence shall apply to a permit as they apply to a licence.

6.—(1) The following provisions of this section shall have effect for the purpose of securing the marking of stallions. Marking of stallions.

(2) In subsection (2) of section two of the principal Act (which provides for the grant of licences in respect of stallions on compliance with conditions as to inspection and examination thereof) the words "and marking" shall be inserted after the word "examination", and in section six of the principal Act (which confers power on persons authorised by the Minister to inspect and examine stallions) the words "and mark with a prescribed mark in the prescribed manner" shall be inserted after the word "examine" in both places where it occurs in that section.

(3) If any person, with intent to deceive, places on a stallion a prescribed mark or a mark so closely resembling a prescribed mark as to be calculated to deceive, or defaces a mark placed on a stallion for the purposes of this Act, he shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding twenty pounds, or to both such imprisonment and such fine.

7.—(1) The Minister may, by notice served in the prescribed manner and in accordance with this section, require that any stallion which has attained the prescribed age at the date when the notice is served and in respect of which no licence or permit Power to order slaughter or castration of stallions.

PART II.
—*cont.*

is for the time being in force, shall be slaughtered or castrated within such time after the notice takes effect as may be specified in the notice :

Provided that this subsection shall not apply to—

- (a) any stallion which attained the age of four years before the coming into operation of this Part of this Act ; or
- (b) a stallion being a thoroughbred or a pony of a prescribed breed.

(2) For the purposes of this section, a notice shall be served—

- (a) in a case where the notice is served together with a notice of a refusal to grant a licence or permit, on the applicant for the licence or permit ;
- (b) in a case where the notice is served together with a notice of revocation of a licence or permit, on the person stated in the licence or permit to be the owner of the stallion ;
- (c) in any other case, on any person for the time being having the control of the stallion.

(3) If a notice under this section is duly served on a person who is not the owner of the stallion, it shall be the duty of that person forthwith to take all reasonable steps to inform the owner thereof, and, if he fails to do so, he shall be liable to indemnify the owner against any loss which the owner may suffer by reason of the failure.

(4) A notice duly served under this section shall take effect at the time of the service thereof :

Provided that—

- (a) if a licence or permit in respect of the stallion has not at any time been applied for, or has ceased to be in force under subsection (2) of section three of the principal Act (which relates to transfer of ownership), and before the expiration of a period of fourteen days from the service of the notice application is duly made for a licence or permit, the notice shall not take effect unless and until the application is refused and, where the application is for a licence, the time for applying for a referee's inspection has expired, nor, if such an inspection is duly applied for, unless and until the Minister notifies the applicant that he has decided to confirm the refusal ; and
- (b) if the Minister has refused to grant, or has revoked, a licence in respect of the stallion, the notice shall not take effect until the time for making application for a referee's inspection has expired, nor, if application is duly made for such an inspection, unless and until the Minister notifies the applicant that he has decided to confirm the refusal or revocation.

(5) If any person on whom a notice has been duly served under this section fails to comply with the notice, he shall be liable on summary conviction to a fine not exceeding three pounds for every day during which the failure continues.

(6) If any person, without the permission of the Minister, at any time after a notice has been duly served under this section removes (otherwise than for the purpose of slaughter or castration) the stallion to which the notice relates from the place where it is at the time of the service of the notice, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(7) If a notice duly served under this section is not complied with, the Minister may cause the stallion to which the notice relates to be slaughtered or castrated at the expense of the person on whom the notice was served, and the cost of the slaughter or castration shall be a debt due from that person to the Crown.

(8) The provisions of this section shall be in addition to, and not in substitution for, the provisions of this Act imposing penalties with respect to the keeping of a stallion without a licence or permit.

8.—(1) In subsection (2) of section two of the principal Act (which provides that the grant of a licence shall be on application made in the prescribed manner), there shall be inserted after the word "manner" the words "and within the prescribed time or such further time as the Minister may in any case allow".

Time for grant of licences, and duration of licences and permits.

(2) It shall be a defence for a person charged with a contravention of subsection (1) or subsection (2) of section two of this Act to prove that, at the date when the contravention is alleged to have occurred, application had been duly made for a licence or permit, or, as the case may be, for a licence, in respect of the stallion and that the Minister had not given notice of his decision on that application.

(3) A licence (including a licence granted before the coming into operation of this Part of this Act if in force at the coming into operation thereof), or a permit, in respect of a stallion shall remain in force until one of the following events occurs, that is to say until—

- (a) the licence or permit is revoked, or ceases to be in force after a change of ownership by virtue of the provision of subsection (2) of section three of the principal Act in that behalf ; or
- (b) the stallion dies or is castrated ; or
- (c) the stallion has been outside Great Britain for a consecutive period of fourteen days or such longer consecutive period as the Minister may allow ; or
- (d) in the case of a permit, a period specified therein for its duration expires.

PART II.
—*cont.*

In computing for the purposes of this subsection how long a stallion has been outside Great Britain, the period of its absence shall be deemed to begin at the time when it is put on board a ship or aircraft for the purpose of being carried out of Great Britain and to end at the time when it is landed in Great Britain on its return.

(4) The last preceding subsection shall be in substitution for subsection (1) of section three of the principal Act (which requires annual renewal of licences).

(5) A licence shall not be revoked on the ground only of the stallion's being affected in its wind if refusal on that ground of renewal of the licence would have been prohibited by the proviso to the said subsection (1) of section three, that is to say, if the stallion has attained such age as may be prescribed and a licence in respect thereof has been in force for such number of years as may be prescribed.

(6) It shall be a defence for a person charged with a contravention of section two of this Act to prove that, at the date when the contravention is alleged to have occurred, a licence in respect of the stallion had been refused or revoked, and either that the time for applying for a referee's inspection had not expired or that an application had been duly made for such an inspection and the Minister had not notified the applicant of his decision as to confirmation of the refusal or revocation.

Presumptions
as to licence
or permit
being in
force, and as
to age of
stallions.

9.—(1) For the purposes of any proceedings for a contravention of subsection (1) of section two of this Act alleged to have occurred at any time, the burden of proof that a licence or permit in respect of the stallion was in force at that time shall lie on the person charged, and until the contrary is proved it shall be presumed that no licence or permit in respect thereof was then in force.

(2) The preceding subsection shall apply in relation to a contravention of subsection (2) of section two of this Act with the omission of the references to a permit.

This subsection shall be in substitution for section eight of the principal Act.

(3) For the purposes of any proceedings for a contravention of subsection (1) of section two of this Act alleged to have occurred at any time, and for the purposes of any proceedings under or arising out of section seven of this Act by virtue of a notice served under that section at any time, it shall be presumed until the contrary is proved that the stallion had attained the prescribed age at that time and that it did not attain the age of four years before the coming into operation of this Part of this Act, and, for the purposes of any proceedings for a contravention of subsection (2) of section two of this Act alleged to have occurred at any time, it shall be presumed until the contrary is proved that the stallion had attained the prescribed age at that time.

(4) Notwithstanding anything in the last preceding subsection, it shall be a defence for a person charged with a contravention of subsection (1) of section two of this Act alleged to have occurred at any time to prove that the stallion was not bred by him, that he took all reasonable steps to ascertain its age, and that he had reason to believe that it had not attained the prescribed age at that time or to believe that it attained the age of four years before the coming into operation of this Part of this Act.

(5) The last preceding subsection shall apply in relation to a contravention of subsection (2) of section two of this Act, with the omission of the reference therein to proof of reason to believe that the stallion had attained the age of four years before the coming into operation of this Part of this Act.

10. The Minister shall secure the inspection and examination of a licensed stallion at such intervals as he may consider proper for the purpose of ascertaining that there is no ground for revoking the licence in respect of the stallion.

Periodical inspections.

11. Rules under the principal Act setting out the breeds of ponies prescribed for the purposes of this Part of this Act may provide that for those purposes ponies of a specified breed shall be treated as of a prescribed breed only so long as they are within a specified district and this Part of this Act shall have effect accordingly.

Special provision for ponies in particular districts.

12.—(1) Any increase attributable to this Part of this Act in the expenses to be defrayed out of moneys provided by Parliament under section eleven of the principal Act shall be defrayed out of moneys so provided.

Expenses, and fines, under Part II.

(2) Subsection (2) of section eleven of the principal Act (which provides for payment to the Minister of fines recoverable under that Act) shall cease to have effect.

13.—(1) This Part of this Act shall come into operation on such date as the Minister may by order appoint.

Commencement, construction, citation and extent of Part II, and repeal.

The power conferred by this subsection shall be exercisable by statutory instrument.

(2) This Part of this Act shall be construed as one with the principal Act, and that Act and this Part of this Act may be cited together as the Horse Breeding Acts, 1918 and 1948.

(3) In the principal Act and in this Part of this Act—

except where the context otherwise requires, the expressions “licence” and “permit” mean respectively a licence and a permit for the purposes thereof;

the expression “thoroughbred” means a horse entered or eligible for entry in the General Stud Book.

PART II.
—cont.

(4) In computing the age of a stallion for the purposes of this Part of this Act, the stallion shall be treated as having attained the age of one year on the first day of January next after the year in which it was foaled.

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

(6) This Part of this Act shall not apply to Northern Ireland.

PART III.

SHORT TITLE AND INTERPRETATION.

14.—(1) This Act may be cited as the *Animals Act, 1948*.

Short title
and
interpretation.

(2) In this Act the expression "the Minister" means, except in the application of Part II thereof to Scotland, the Minister of Agriculture and Fisheries, and, in the application of Part II thereof to Scotland, the Secretary of State.

SCHEDULE.

Section 13.

REPEALS.

Session and Chapter.	Short title.	Extent of repeal.
8 & 9 Geo. 5. c. 13.	The Horse Breeding Act, 1918.	Section one. In section two, the words "and suspend" and the words "or suspend". In section three, subsection (1). In section four, in subsection (1), the words "or suspend". In section five, in paragraph (c), the words "or suspension". In section six, the words "which is or which he has reason to believe has been travelled for service, or exhibited as aforesaid", and the word "such". Section eight. In section ten, the words "and suspension" in both places where they occur. In section eleven, subsection (2). In section thirteen, the words "and subsection (2) of section eleven".

CHAPTER 36.

An Act to amend the House of Commons Members' Fund Act, 1939. [30th June 1948.]

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, the objects of the fund established under the House of Commons Members' Fund Act, 1939 (in this Act referred to as "the principal Act") shall include the making of grants to the widowers of persons who have been members of the House of Commons, and accordingly subsections (1) and (2) of section one of that Act shall have effect as if in each of those subsections after the word "widows" there were inserted the words "or widowers".

Payments to widowers of past members. 2 & 3 Geo. 6. c. 49.

(2) The First Schedule to the principal Act (which imposes limitations on the payments which may be made out of the fund) shall have effect as if after paragraph 2 there were inserted the following paragraph :—

"2A. No payment shall be made to any person by virtue of his being the widower of a past member of the House of Commons unless, in the opinion of the trustees, he is, and was before his wife's death, incapable by reason of age or mental or bodily infirmity of earning his living; and the annual amount of any periodical payment made to any such person shall not exceed one hundred and fifty pounds or such sum as, in the opinion of the trustees, will bring his income up to two hundred and twenty-five pounds per annum, whichever is the less."

2.—(1) Paragraph 1 of the First Schedule to the principal Act (which prescribes the annual amount of any periodical payments which may be made to past members of the House of Commons) shall have effect as if for the words "one hundred and fifty pounds" there were substituted the words "two hundred and fifty pounds", and as if for the words "two hundred and twenty-five pounds" there were substituted the words "three hundred and twenty-five pounds".

Increase of annual payments to past members, widows and children.

(2) Paragraph 2 of that Schedule (which prescribes the annual amount of any periodical payments which may be made to the widows of past members of the House of Commons) shall have effect as if for the words "seventy-five pounds" there were substituted the words "one hundred and fifty pounds" and as if for the words "one hundred and twenty-five pounds" there were substituted the words "two hundred and twenty-five pounds".

(3) For paragraph 4 of the said Schedule (which relates to the payments which may be made in respect of the children of past members of the House of Commons) there shall be substituted the following paragraph :—

“ 4.—(1) No payment shall be made in respect of any child of a past member of the House of Commons after the child has attained the age of sixteen years.

(2) Where any periodical payment is made in respect of only one child of a past member, the annual amount of that payment shall not exceed—

(a) if both of his parents are dead, one hundred pounds ;
and

(b) if one of his parents is living, fifty pounds.

(3) Where any periodical payment is made in respect of two or more children of a past member, the annual amount of that payment shall not exceed—

(a) if both of their parents are dead, seventy-five pounds in respect of each of those children ; and

(b) if one of their parents is living, fifty pounds in respect of the eldest of those children and thirty pounds in respect of each of those children other than the eldest.”

Variation of maximum payments and deductions from members' salaries.

3.—(1) The maximum annual amount of any periodical payment which may be made out of the fund under the principal Act as amended by this Act (whether calculated by reference to a fixed sum or by reference to the income of the recipient), and the amount of the sums to be deducted or set aside from the salaries of members of the House of Commons under subsection (3) of section one of that Act, may be varied by a resolution passed by the House of Commons as from such date (not being earlier than the day on which the resolution is passed) as may be specified in the resolution.

(2) Any such resolution as aforesaid may be revoked or varied by a subsequent resolution.

9 & 10 Geo. 6.
c. 36.

(3) Section two of the Statutory Instruments Act, 1946 (which provides for the numbering and printing of statutory instruments) shall apply to any such resolution as aforesaid as if it were a statutory instrument.

Provision for cases of special hardship.

4.—(1) Subject to the provisions of this section, the trustees may, for the purpose of alleviating special hardship, cause to be made out of sums appropriated for the purposes of this section or the income thereof such periodical or other payments as they think fit to or in respect of persons who have been members of the House of Commons whether before or after the passing of the principal Act, or the widows, widowers or orphan children of such persons.

(2) The provisions of the First Schedule to the principal Act (except paragraph 5 of that Schedule) shall not apply to payments made under this section ; but subject to the provisions of the said paragraph 5 the making of any payment under this section, and the amount of any such payment, shall be in the entire discretion of the trustees.

(3) For the purposes of this section, the trustees may appropriate out of the fund established under the principal Act—

(a) a sum not exceeding three thousand pounds ; and

(b) sums not exceeding the value of any property which may, at any time after the commencement of this Act, be accepted by the trustees under subsection (2) of section three of the principal Act, or the investments for the time being representing any such property.

(4) The House of Commons may in any year by resolution direct that there shall be appropriated for the purposes of this section out of the said fund such part, not exceeding one-tenth, as may be specified in the resolution of the sums deducted or set aside in that year from the salaries of members of the House of Commons under subsection (3) of section one of the principal Act.

(5) In this section the expression " year " means a year beginning on the first day of October.

5.—(1) In subsection (2) of section three of the principal Act (which empowers the trustees to accept certain property) all the words from " who is or," to the end of the subsection, shall be omitted. Acceptance of property by the trustees.

(2) Any property, other than money or authorised investments, accepted by the trustees under the said subsection (2) shall be held upon trust for sale :

Provided that the trustees may in their discretion postpone the sale and conversion of any such property for such time as they think fit.

6. Notwithstanding anything in subsection (5) of section three of the principal Act (which relates to the making of reports by the Government Actuary on the general financial position of the fund), the date specified in the report first made under that subsection after the passing of this Act may be a date later than five years after that specified in the last preceding report, but shall not be later than the expiration of twelve months after the date of dissolution of the present Parliament. Report by Government Actuary.

7. This Act may be cited as the House of Commons Members' Fund Act, 1948, and the principal Act and this Act may be cited together as the House of Commons Members' Fund Acts, 1939 and 1948. Citation.

CHAPTER 37.

Radioactive Substances Act, 1948.

ARRANGEMENT OF SECTIONS.

Section.

1. Powers of Minister of Supply in relation to radioactive substances.
2. Control of importation and exportation of radioactive substances.
3. Control of sale and supply of radioactive substances.
4. Control of use of irradiating apparatus for therapeutic purposes.
5. Safety regulations for occupations involving radioactive substances and irradiating apparatus.
6. Advisory Committee.
7. Power of entry and inspection.
8. Offences and penalties.
9. Regulations and orders.
10. Power to revoke or vary Orders in Council and orders.
11. Expenses of Ministers.
12. Interpretation.
13. Application to Scotland.
14. Application to Northern Ireland.
15. Short title.

An Act to make provision with respect to radioactive substances and certain apparatus producing radiation.

[30th June 1948.]

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:—

Powers of
Minister of
Supply in
relation to
radioactive
substances.

1.—(1) The Minister of Supply shall have power to manufacture or otherwise produce, buy or otherwise acquire, treat, store, transport and dispose of any radioactive substances; and to do all such things (including the erection of buildings and the execution of works) as appear to the Minister necessary or expedient for the exercise of the preceding powers.

2 & 3 Geo. 6.
c. 38.

(2) Subsections (2) and (3) of section two of the Ministry of Supply Act, 1939 (which provide for the application of certain statutory provisions, including provisions relating to the acquisition of land, in relation to the Minister or his property) and Articles 5 and 6 of the Ministry of Supply (Transfer of Powers) (No. 1) Order, 1939, shall apply in relation to functions of the Minister under this Act or property vested in or under the control of the Minister by virtue of this Act.

Control of
importation and
exportation of
radioactive
substances.

2.—(1) The Minister of Supply may by order make such provision as the Minister thinks expedient for prohibiting or regulating, subject to such exceptions, if any, as may be made by or under the order, the importation into, or exportation from, the United Kingdom, or the carriage coastwise or the shipment as ships'

stores, of all radioactive substances or radioactive substances of any class or description specified in the order :

Provided that no such order shall come into operation before the expiry of the Import, Export and Customs Powers (Defence) Act, 1939. 2 & 3 Geo. 6.
c. 69

(2) If any radioactive substances are imported, exported, carried coastwise or shipped as ships' stores in contravention of any such order or are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention of any such order, those goods shall be deemed to be prohibited goods and shall be forfeited ; and the exporter of the goods or his agent, or the shipper of the goods, shall be liable, in addition to any other penalty under the enactments relating to customs, to a customs penalty of five hundred pounds.

(3) For the purposes of this section, the Isle of Man shall be deemed to form part of the United Kingdom, and this section shall be construed as one with the Customs Consolidation Act, 1876, and the enactments amending that Act. 39 & 40 Vict.
c. 36.

3.—(1) Subject to the provisions of this section, no person shall, as from the appointed day, sell or otherwise supply any substance which contains more than the prescribed quantity of a radioactive chemical element (whether natural or artificial) and is intended to be taken internally by, injected into or applied to a human being, unless— Control of
sale and
supply of
radioactive
substances.

- (a) that person is a duly qualified medical practitioner or a registered dental practitioner and is licensed under this section, or is a person acting in accordance with the directions of any such practitioner licensed as aforesaid, and the substance is sold or supplied for the purposes of treatment by or in accordance with the directions of that practitioner ; or
- (b) that person is a registered pharmacist or an authorised seller of poisons, and the substance is sold or supplied under the authority of a prescription signed and dated by any such practitioner licensed as aforesaid.

(2) Subject to the provisions of this section, no person shall administer any such substance by way of treatment of a human being unless he is such a practitioner licensed as aforesaid or is acting in accordance with the directions of such a practitioner so licensed.

(3) An application for a licence under this section shall be made to the appropriate Minister in writing and the applicant shall furnish such information as the Minister may require, and the Minister may grant or refuse the licence as he thinks fit, and, if he grants the licence, may grant it subject to such conditions, limitations and exceptions as may be specified therein.

(4) A licence under this section may at any time be varied or revoked by the appropriate Minister and, if such a licence is granted for a limited period, it may be renewed (with or without variation) at the expiration of that period on the like application as in the case of the grant of a licence.

(5) Subsection (1) of this section shall not apply to the sale or supply of any such substance as is therein mentioned—

- (a) by way of wholesale dealing ;
- (b) for the purpose of being exported ;
- (c) to any such practitioner licensed as aforesaid ;
- (d) to any person carrying on a hospital, clinic, nursing home or other institution providing or assisting in the provision of medical, surgical or dental treatment ; or
- (e) to any Minister of the Crown or Government department.

(6) A prescription signed by any such practitioner licensed as aforesaid authorising the sale or supply of any such substance as aforesaid 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 during a specified period, it may be dispensed in accordance with that direction.

(7) The following respective Ministers and Ministry, that is to say—

- (a) as respects England and Wales, the Minister of Health ;
- (b) as respects Scotland, the Secretary of State ;
- (c) as respects Great Britain, the Minister of Health and the Secretary of State acting jointly ; and
- (d) as respects Northern Ireland, the Ministry of Health and Local Government for Northern Ireland ;

may by order provide, subject to such conditions, limitations and exceptions as may be specified in the order, for exempting from subsection (1) or subsection (2) of this section the sale or supply or, as the case may be, the administering of substances by or to persons of such classes or descriptions as may be so specified.

(8) Any person who contravenes any provision of this section or contravenes or fails to comply with any provision of a licence granted to him under this section, or being entitled to an exemption under an order made under this section contravenes or fails to comply with any provision of the order, shall be guilty of an offence :

Provided that, where any duly qualified medical practitioner or registered dental practitioner has, within three months from the appointed day, duly applied to the appropriate Minister for a licence under this section, the preceding provisions of this section

shall, pending the notification to him of the Minister's decision on the application, have effect as if the licence had been granted on the terms of the application.

(9) In this section—

the expression "the appointed day" means such day as may be appointed by regulations made, as respects Great Britain, by the Minister of Health and the Secretary of State jointly and, as respects Northern Ireland, by the Ministry of Health and Local Government for Northern Ireland ;

the expression "the appropriate Minister" means—

(a) in relation to the grant of a licence to a person resident in England or Wales, or the renewal, variation or revocation of the licence of a person so resident, the Minister of Health ;

(b) in relation to the grant of a licence to a person resident in Scotland, or the renewal, variation or revocation of the licence of a person so resident, the Secretary of State ; and

(c) in relation to the grant of a licence to a person resident in Northern Ireland, or the renewal, variation or revocation of the licence of a person so resident, the Ministry of Health and Local Government for Northern Ireland ;

the expression "prescribed" means prescribed by regulations made as aforesaid.

(10) Such regulations may prescribe, for the purposes of this section, different permitted quantities for different radioactive chemical elements and in relation to different classes or descriptions of substances.

(11) Before making any regulations or order under this section, the Ministers or Minister or Ministry concerned shall consult with the Advisory Committee established under this Act.

4.—(1) Subject to the provisions of this section, no person shall, as from the appointed day, use for the purposes of the medical, surgical or dental treatment of human beings any irradiating apparatus of a prescribed class or description, unless he is a duly qualified medical practitioner or a registered dental practitioner and is licensed under this section, or is a person acting in accordance with the directions of any such practitioner licensed as aforesaid. Control of use of irradiating apparatus for therapeutic purposes.

(2) The following respective Ministers and Ministry, that is to say—

- (a) as respects England and Wales, the Minister of Health ;
- (b) as respects Scotland, the Secretary of State ;

- (c) as respects Great Britain, the Minister of Health and the Secretary of State acting jointly ; and
- (d) as respects Northern Ireland, the Ministry of Health and Local Government for Northern Ireland ;

may by order provide, subject to such conditions, limitations and exceptions as may be specified in the order, for the exemption from this section of such classes or descriptions of persons as may be so specified.

(3) Any person who contravenes subsection (1) of this section or contravenes or fails to comply with any provision of a licence granted to him under this section, or being exempted by an order made under this section contravenes or fails to comply with any provision of the order, shall be guilty of an offence :

Provided that, where any duly qualified medical practitioner or registered dental practitioner has, within three months from the appointed day, duly applied to the appropriate Minister for a licence under this section in respect of any apparatus, subsection (1) of this section shall, pending the notification to him of the Minister's decision on the application, have effect as if the licence had been granted on the terms of the application.

(4) Regulations made, as respects Great Britain, by the Minister of Health and the Secretary of State jointly or, as respects Northern Ireland, by the Ministry of Health and Local Government for Northern Ireland may provide for extending the provisions of this section so as to apply to the use for the purposes of medical, surgical or dental diagnosis of any irradiating apparatus of a class or description specified in the regulations, but save as aforesaid this section shall not apply to the use of apparatus for those purposes.

(5) Subsections (3) and (4) of the last preceding section shall apply in relation to licences under this section as they apply in relation to licences under that section, and the definitions contained in subsection (9) of that section shall apply for the purposes of this section.

(6) Before making any regulations or order under this section, the Ministers or the Minister or the Ministry concerned shall consult with the Advisory Committee established under this Act.

Safety regulations for occupations involving radioactive substances and irradiating apparatus.

5.—(1) The appropriate Minister may, as respects any class or description of premises or places specified in the regulations, being premises or places in which radioactive substances are manufactured, produced, treated, stored or used or irradiating apparatus is used, make such provision by regulations as appears to the Minister to be necessary—

- (a) to prevent injury being caused by ionising radiations to the health of persons employed at those premises or places or other persons ; or

- (b) to secure that any radioactive waste products resulting from such manufacture, production, treatment, storage or use as aforesaid are disposed of safely ;

and the regulations may, in particular and without prejudice to the generality of this subsection, provide for imposing requirements as to the erection or structural alteration of buildings or the carrying out of works.

(2) The appropriate Minister may, as respects the transport of any radioactive substances, make such regulations as appear to him to be necessary to prevent injury being caused by such transport to the health of persons engaged therein and other persons.

(3) Regulations made under this section may provide for imposing requirements, prohibitions and restrictions on employers, employed persons and other persons.

(4) Any person who contravenes or fails to comply with any regulation made under this section or any requirement, prohibition or restriction imposed under any such regulation shall be guilty of an offence.

(5) Before making any regulations under this section, the appropriate Minister shall consult with the Advisory Committee established under this Act.

(6) In this section the expression " the appropriate Minister " means such Minister, or such Ministers acting jointly, as may be designated by Order in Council, and different Ministers may be designated, for the purposes of subsection (1) of this section, for different classes or descriptions of premises or places and, for the purposes of subsection (2) of this section, for different forms of transport or for the transport of different classes or descriptions of substances.

(7) This section shall be without prejudice to the provisions of the Factories Act, 1937, as amended by any subsequent enactment. 1 Edw. 8 &
1 Geo. 6.
c. 67.

* 6.—(1) There shall be an Advisory Committee whose duty shall be to advise any Minister or Ministry by whom functions are exercisable under this Act on any matters on which that Minister or Ministry is required to consult the Committee and any matters connected with the exercise of those functions on which the Committee at any time think fit to advise and any matters arising out of the exercise of those functions which are referred to the Committee by any such Minister or Ministry. Advisory
Committee.

(2) The members of the Committee shall be appointed by the following Ministers jointly, that is to say the Minister of Health, the Secretary of State, the Minister of Supply and

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the Minister of Health and Local Government for Northern Ireland for the time being, after consultation with such scientific, professional and technical organisations and persons as the said Ministers think appropriate.

(3) The Ministers referred to in the last preceding subsection shall appoint jointly a member of the Committee to be chairman thereof, and the Minister of Health shall appoint an officer of the Ministry of Health to be secretary of the Committee.

(4) Every member of the Committee shall hold and vacate his office in accordance with the terms of his appointment, and shall, on ceasing to be a member, be eligible for re-appointment :

Provided that any member may at any time by notice in writing to the Ministers referred to in subsection (2) of this section resign his office.

(5) The meetings and the procedure of the Committee shall be such as may be determined by them.

Power of entry
and inspection.

7.—(1) Any person authorised by the appropriate Minister to act under this section shall, on producing, if so required, a duly authenticated document showing his authority, have a right to enter at all reasonable hours any premises (other than premises wholly or mainly used for residential purposes) or any vehicle, vessel or aircraft, for the purpose of ascertaining whether there has been committed, or is being committed, in or in connection with the premises, vehicle, vessel, or aircraft an offence under any provision of this Act except section two.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing by a person authorised as aforesaid—

(a) that the exercise of the right conferred by the preceding subsection has been refused or, in the case of premises wholly or mainly used for residential purposes, that a request for admission has been refused, or that the case is one of urgency or that an application or request for admission would defeat the object of the entry ; and

(b) that there are reasonable grounds for suspecting that an offence under any provision of this Act (except section two) has been or is being committed in or in connection with the premises, vehicle, vessel or aircraft in question ;

the justice may by warrant under his hand authorise that person and any other person named in the warrant and any constable to enter and search any premises, vehicle, vessel or aircraft, if need be by force.

(3) Every warrant granted under this section shall continue in force until the purpose for which it was granted has been satisfied.

(4) If any person wilfully obstructs any person exercising powers under this section, he shall be guilty of an offence.

(5) If any person discloses any information obtained by means of the exercise of powers under this section, being information with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in accordance with the directions of the appropriate Minister or for the purpose of proceedings for an offence under this Act or any report of those proceedings, be guilty of an offence.

(6) In this section the expression "the appropriate Minister" means, in relation to the exercise of powers for enforcing any section of this Act, the appropriate Minister within the meaning of that section.

8.—(1) Any person guilty of an offence under subsection (4) of the last preceding section shall be liable, on summary conviction, to a fine not exceeding twenty pounds or, in the case of a second or subsequent offence, to a fine not exceeding one hundred pounds. Offences and penalties.

(2) Any person guilty of an offence under subsection (5) of the last preceding section shall—

- (a) on summary conviction, be liable 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
- (b) on conviction on indictment, be liable 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.

(3) Any person guilty of an offence under any other provision of this Act shall be liable, on summary conviction, to a fine not exceeding one hundred pounds or, in the case of a second or subsequent offence, 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.

(4) If the act or omission constituting an offence under any provision of this Act in respect of which a person is convicted is continued after conviction, he shall be guilty of a further offence and may, on summary conviction, be punished accordingly.

(5) Where an offence under any provision 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.

(6) The court by which any person is convicted of an offence under any provision of this Act in respect of any substances or apparatus may order that the substances or apparatus shall be forfeited to the Crown.

(7) Nothing in this section shall apply to offences arising under section two of this Act.

Regulations
and orders.

9.—(1) Any power conferred by this Act to make regulations or orders shall be exercisable by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Before any regulations are made under this Act, the Minister or Ministers making the regulations shall publish in the Gazette and in such other manner as he or they may think best adapted for informing persons affected notice of the proposal to make the regulations, and of the place where copies of the draft regulations may be obtained, and of the time (not being less than twenty-eight days) and the manner in which objection may be made to the regulations.

(3) If any objection is duly made and is not withdrawn, the said Minister or Ministers shall, before making the regulations, either cause a public inquiry to be held or afford to any person by whom any objection has been duly made and not withdrawn an opportunity of appearing before and being heard by a person appointed by the said Minister or Ministers for the purpose, and shall consider the objection and the report of the person who held the inquiry or the person appointed as aforesaid before making the regulations.

23 & 24 Geo. 5
c. 51.

(4) Notice of any such inquiry as aforesaid shall be given in such manner as appears to the said Minister or Ministers to be appropriate for the purpose of informing the persons affected, and the provisions of subsections (2), (3) and (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to evidence and costs) shall apply in relation to any such inquiry as if for any reference therein to the department there were substituted a reference to the said Minister or Ministers.

Power to
revoke or vary
Orders in
Council and
orders.

10. Any Order in Council or order made under this Act may be revoked or varied by a subsequent Order in Council or order made in like manner and subject to the like conditions.

Expenses of
Ministers.

11. Any expenses incurred by the Minister of Supply in the exercise of functions under this Act and any administrative expenses incurred by any Minister of the Crown or Government department under or by virtue of this Act, shall be defrayed out of moneys provided by Parliament.

Interpre-
tation.

12. In this Act, 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 Pharmacy and Poisons Act, 1933 ;

22 & 23 Geo. 5
c. 25.

“ the Gazette ” means, in relation to regulations which have effect in England and Wales only, the London Gazette, and, in relation to regulations which have effect in Scotland only, the Edinburgh Gazette, and, in relation to regulations which have effect in Great Britain, both those Gazettes ;

“ radioactive substance ” means any substance which consists of or contains any radioactive chemical element, whether natural or artificial ;

“ 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 ;

“ sale by way of wholesale dealing ” means sale to a person who buys for the purpose of selling again ;

“ substance ” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour, and also includes any manufactured article or article which has been subjected to any artificial treatment or process.

13. In the application of this Act to Scotland—

Application
to Scotland.

(a) for any reference to a justice of the peace there shall be substituted a reference to the sheriff ; and

(b) the provisions of subsections (4) to (7) and subsection (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, shall apply to any inquiry held in Scotland under section nine of this Act in lieu of the provisions mentioned in subsection (4) of that section.

10 & 11 Geo. 6.
c. 43.

14.—(1) Subject to the provisions of this section this Act extends to Northern Ireland.

Application to
Northern
Ireland

(2) In the application of this Act to Northern Ireland the following provisions of this subsection shall have effect, that is to say :—

(a) in sections three and eleven, the expression “ Government department ” shall be construed as including a department of the Government of Northern Ireland ;

(b) in section five, for the definition of “ the appropriate Minister ” the following definition shall be substituted—

“ ‘ the appropriate Minister ’ means such department of the Government of Northern Ireland as may

be designated by Order in Council made by the Governor of Northern Ireland by virtue of section four of the Ministries Act (Northern Ireland), 1944, and different departments may be designated, for the purposes of subsection (1) of this section, for different classes or descriptions of premises or places and, for the purposes of subsection (2) of this section, for different forms of transport or for the transport of different classes or descriptions of substances ;”

and the reference in subsection (7) of that section to the provisions of the Factories Act, 1937, as amended by any subsequent enactment shall be construed as a reference to the enactments of the Parliament of Northern Ireland for the time being in force corresponding to those provisions ;

(c) in subsection (2) of section seven, for the reference to a justice of the peace there shall be substituted a reference to a resident magistrate within the meaning of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935 ;

(d) in section eight, the references to summary conviction shall be construed as references to 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 ;

(e) the following section shall have effect in lieu of section nine—

“ All regulations and orders made by the Ministry of Health and Local Government for Northern Ireland under this Act shall be laid before each House of the Parliament of Northern Ireland, and if either such House within the statutory period next after 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 done thereunder or to the making of new regulations.

In this section the expression ‘ statutory period ’ means a period comprising five days at least on which the Senate or the House of Commons (as the case may require) has sat, but not being in any case shorter in duration than ten days, such days being reckoned without regard to the question whether they are comprised in one or in more than one Session of Parliament.” ;

(f) in section twelve, for the definitions of "authorised seller of poisons" and "registered pharmacists" there shall be substituted the following definitions:—

" '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."

15. This Act may be cited as the Radioactive Substances Act, 1948. Short title.

CHAPTER 38.

Companies Act, 1948.

ARRANGEMENT OF SECTIONS.

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INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO.

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Section.

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2. Requirements with respect to memorandum.
3. Stamp and signature of memorandum.
4. Restriction on alteration of memorandum.
5. Mode in which and extent to which objects of company may be altered.

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6. Articles prescribing regulations for companies.
7. Regulations required in case of unlimited company or company limited by guarantee.
8. Adoption and application of Table A.
9. Printing, stamp, and signature of articles.
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Form of Memorandum and Articles.

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Registration.

12. Registration of memorandum and articles.
13. Effect of registration.
14. Power of company to hold lands.
15. Conclusiveness of certificate of incorporation.
16. Registration of unlimited company as limited.

Provisions with respect to Names of Companies.

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17. Prohibition of registration of companies by undesirable names.
18. Change of name.
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23. Power to alter conditions in memorandum which could have been contained in articles.
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36. Authentication of documents.

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38. Matters to be stated and reports to be set out in prospectus.
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40. Expert's consent to issue of prospectus containing statement by him.
41. Registration of prospectus.
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43. Civil liability for mis-statements in prospectus.
44. Criminal liability for mis-statements in prospectus.
45. Document containing offer of shares or debentures for sale to be deemed prospectus.
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- 47. Prohibition of allotment unless minimum subscription received.
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- 49. Effect of irregular allotment.
- 50. Applications for, and allotment of, shares and debentures.
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Construction of References to offering Shares or Debentures to the Public.

- 55. Construction of references to offering shares or debentures to the public.

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An Act to consolidate the Companies Act, 1929, the Companies Act, 1947 (other than the provisions thereof relating to the registration of business names, bankruptcy and the prevention of fraud in connection with unit trusts), and certain other enactments amending the first-mentioned Act.

[30th June 1948.]

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.

INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO.

Memorandum of Association.

1.—(1) Any seven or more persons, or, where the company to be formed will be a private company, any two or more persons, associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability.

Mode of forming in incorporated company.

PART I.
—cont.

(2) Such a company may be either—

- (a) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed “ a company limited by shares ”); or
- (b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed “ a company limited by guarantee ”); or
- (c) a company not having any limit on the liability of its members (in this Act termed “ an unlimited company ”).

Require-
ments with
respect to
memoran-
dum.

2.—(1) The memorandum of every company must state—

- (a) the name of the company, with “ limited ” as the last word of the name in the case of a company limited by shares or by guarantee;
- (b) whether the registered office of the company is to be situate in England or in Scotland;
- (c) the objects of the company.

(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.

(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital—

- (a) the memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;
- (b) no subscriber of the memorandum may take less than one share;
- (c) each subscriber must write opposite to his name the number of shares he takes.

3. The memorandum must bear the same stamp as if it were a deed, and must be signed by each subscriber in the presence of at least one witness who must attest the signature, and that attestation shall be sufficient in Scotland as well as in England.

PART I.
—*cont.*
Stamp and signature of memorandum.

4. A company may not alter the conditions contained in its memorandum except in the cases, in the mode and to the extent for which express provision is made in this Act.

Restriction on alteration of memorandum.

5.—(1) A company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it—

Mode in which and extent to which objects of company may be altered.

- (a) to carry on its business more economically or more efficiently; or
- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum; or
- (f) to sell or dispose of the whole or any part of the undertaking of the company; or
- (g) to amalgamate with any other company or body of persons:

Provided that if an application is made to the court in accordance with this section for the alteration to be cancelled, it shall not have effect except in so far as it is confirmed by the court.

(2) 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.

(3) 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.

PART I.
—*cont.*

(4) 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:

Provided that no part of the capital of the company shall be expended in any such purchase.

(5) 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 first day of December, nineteen hundred and forty-seven, 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.

(6) 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.

(7) 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.

(8) 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.

(9) The validity of an alteration of the provisions of a company's memorandum with respect to the objects of the company shall not be questioned on the ground that it was not authorised by subsection (1) of this section 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 in that behalf; 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.

(10) In relation to a resolution for altering the provisions of a company's memorandum with respect to the objects of the company passed before the first day of December, nineteen hundred and forty-seven, this section shall have effect as if, in lieu of the proviso to subsection (1) and subsections (2) to (9) thereof, there had been enacted therein the provisions of subsections (2) to (7) of section five of the Companies Act, 1929.

19 & 20
Geo. 5. c. 23.

Articles of Association.

6. There may in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

Articles
prescribing
regulations
for companies.

7.—(1) In the case of an unlimited company the articles must state the number of members with which the company proposes to be registered and, if the company has a share capital, the amount of share capital with which the company proposes to be registered.

Regulations
required in
case of
unlimited
company
or company
limited by
guarantee.

(2) In the case of a company limited by guarantee, the articles must state the number of members with which the company proposes to be registered.

(3) Where an unlimited company or a company limited by guarantee has increased the number of its members beyond the registered number, it shall, within fifteen days after the increase was resolved on or took place, give to the registrar of companies notice of the increase, and the registrar shall record the increase.

PART I.
—cont.

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 default fine.

Adoption and application of Table A

8.—(1) Articles of association may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Printing, stamp, and signature of articles.

9. Articles must—

- (a) be printed;
- (b) be divided into paragraphs numbered consecutively;
- (c) bear the same stamp as if they were contained in a deed;
- (d) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature, and that attestation shall be sufficient in Scotland as well as in England.

Alteration of articles by special resolution.

10.—(1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.

(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Act, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.

Form of Memorandum and Articles.

Statutory forms of memorandum and articles.

11. The form of—

- (a) the memorandum of association of a company limited by shares;
- (b) the memorandum and articles of association of a company limited by guarantee and not having a share capital;
- (c) the memorandum and articles of association of a company limited by guarantee and having a share capital;
- (d) the memorandum and articles of association of an unlimited company having a share capital;

shall be respectively in accordance with the forms set out in Tables B, C, D and E in the First Schedule to this Act, or as near thereto as circumstances admit.

Registration.

PART I

—*cont.*Registration
of memo-
randum and
articles.

12. The memorandum and the articles, if any, shall be delivered to the registrar of companies for England or the registrar of companies for Scotland according as the registered office of the company is stated by the memorandum to be situate in England or Scotland, and the registrar shall retain and register them.

13.—(1) On the registration of the memorandum of a company the registrar shall certify under his hand that the company is incorporated and, in the case of a limited company, that the company is limited.

Effect of
registration.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

14.—(1) A company incorporated under this Act shall have power to hold lands, and as regards lands in any part of the United Kingdom without licence in mortmain:

Power of
company to
hold lands.

Provided that a company formed for the purpose of promoting art, science, religion, charity or any other like object not involving the acquisition of gain by the company or by its individual members, shall not, without the licence of the Board of Trade, hold more than two acres of land, but the Board may by licence empower any such company to hold lands in such quantity, and subject to such conditions, as the Board think fit.

(2) A licence given by the Board of Trade under this section shall be in accordance with the form set out in the Second Schedule to this Act, or as near thereto as circumstances admit.

15.—(1) A certificate of incorporation given by the registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act.

Conclusive-
ness of cer-
tificate of in-
corporation.

(2) A statutory declaration by a solicitor of the Supreme Court, and in Scotland by a solicitor, engaged in the formation of the company, or by a person named in the

PART I.
—cont.

articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

Registration of unlimited company as limited.

16.—(1) Subject to the provisions of this section, a company registered as unlimited may register under this Act as limited, or a company already registered as a limited company may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of the company before the registration, and those rights or liabilities may be enforced in manner provided by Part VIII of this Act in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act, and as if the provisions of the Acts under which the company was previously registered and regulated had been contained in different Acts from those under which the company is registered as a limited company.

Provisions with respect to Names of Companies.

Prohibition of registration of companies by undesirable names.

17. No company shall be registered by a name which in the opinion of the Board of Trade is undesirable.

Change of name.

18.—(1) A company may by special resolution and with the approval of the Board of Trade signified in writing change its name.

(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 of Trade 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 a company changes its name under this section, the registrar shall enter the new name on the register in place

of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

PART I.
—cont.

(4) A change of name by a company under this section shall not affect any rights or obligations of the company or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

19.—(1) Where it is proved to the satisfaction of the Board of Trade that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Board may by licence direct that the association may be registered as a company with limited liability, without the addition of the word "limited" to its name, and the association may be registered accordingly and shall, on registration, enjoy all the privileges and (subject to the provisions of this section) be subject to all the obligations of limited companies.

Power to dis-
pense with
"limited"
in name of
charitable
and other
companies.

(2) Where it is proved to the satisfaction of the Board of Trade—

- (a) that the objects of a company registered under this Act as a limited company are restricted to those specified in the foregoing subsection 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;

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", and subsections (3) and (4) of the last foregoing section shall apply to a change of name under this subsection as they apply to a change of name under that section.

(3) A licence by the Board of Trade under this section may be granted on such conditions and subject to such regulations as the Board think fit, and those conditions and regulations shall be binding on the body to which the licence is granted, and (where the grant is under subsection (1) of this section) shall, if the Board so direct, be inserted in the memorandum and articles, or in one of those documents.

(4) A body to which a licence is granted under this section shall be excepted from the provisions of this Act relating to the use of the word "limited" as any part of its name, the publishing of its name and the sending of lists of members to the registrar of companies.

PART I.
—cont.

(5) A licence under this section may at any time be revoked by the Board of Trade, and upon revocation the registrar shall enter the word "limited" at the end of the name upon the register of the body to which it was granted, and the body shall cease to enjoy the exemptions and privileges or, as the case may be, the exemptions granted by this section:

Provided that, before a licence is so revoked, the Board shall give to the body notice in writing of their intention, and shall afford it an opportunity of being heard in opposition to the revocation.

(6) Where a body in respect of which a licence under this section is in force alters the provisions of its memorandum with respect to its objects, the Board of Trade 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.

(7) Where a licence granted under this section to a body the name of which contains the words "Chamber of Commerce" is revoked, the body shall, within a period of six weeks from the date of revocation or such longer period as the Board of Trade may think fit to allow, change its name to a name which does not contain those words, and—

- (a) the notice to be given under the proviso to subsection (5) of this section to that body shall include a statement of the effect of the foregoing provisions of this subsection; and
- (b) subsections (3) and (4) of the last foregoing section shall apply to a change of name under this subsection as they apply to a change of name under that section.

If the body makes default in complying with the requirements of this subsection, it shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

General Provisions with respect to Memorandum and Articles.

Effect of
memorandum
and articles.

20.—(1) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company, and in England be of the nature of a specialty debt.

21.—(1) In the case of a company limited by guarantee and not having a share capital, and registered on or after the first day of January, nineteen hundred and one, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

PART I
—*cont.*
Provision as to memorandum and articles of companies limited by guarantee.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of a company limited by guarantee and registered on or after the date aforesaid, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

22. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company:

Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent

Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

23.—(1) Subject to the provisions of the last foregoing section and of section two hundred and ten of this Act, any condition contained in a company's memorandum 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:

Power to alter conditions in memorandum which could have been contained in articles.

Provided that if an application is made to the court for the alteration to be cancelled, it shall not have effect except in so far as it is confirmed by the court.

(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) Subsections (2), (3), (4), (7) and (8) of section five of this Act (except paragraph (b) of the said subsection (2)) shall apply in relation to any alteration and to any application made under this section as they apply in relation to alterations and to applications made under that section.

PART I.
—cont.

(4) This section shall apply to a company's memorandum whether registered before or after the commencement of this Act.

Copies of memorandum and articles to be given to members.

24.—(1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, and a copy of any Act of Parliament which alters the memorandum, subject to payment, in the case of a copy of the memorandum and of the articles, of one shilling or such less sum as the company may prescribe, and, in the case of a copy of an Act, of such sum not exceeding the published price thereof as the company may require.

(2) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable for each offence to a fine not exceeding one pound.

Issued copies of memorandum to embody alterations

25.—(1) Where an alteration is made in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum which are not in accordance with the alteration, it shall be liable to a fine not exceeding one pound for each copy so issued, and every officer of the company who is in default shall be liable to the like penalty.

Membership of Company.

Definition of member.

26.—(1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Membership of holding company.

27.—(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 commencement of this Act, 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.

Private Companies.

28.—(1) For the purposes of this Act, the expression “private company” means a company which by its articles—

Meaning of
“private
company”.

- (a) restricts the right to transfer its shares; and
- (b) limits the number of its members to fifty, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, members of the company; and
- (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) Where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.

29. Where the articles of a company include the provisions which, under the last foregoing section, are required to be included in the articles of a company in order to constitute it a private company but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in section thirty-one, subsection (1) of section one hundred and twenty-nine, paragraph (d) of section two hundred and twenty-two and paragraph (i) of proviso (a) to subsection (1) of section two hundred and twenty-four of this Act, and thereupon the provisions contained in the first, third and fourth of those enactments shall apply to the company as if it were not a private company and the provisions contained

Consequences
of default in
complying
with
conditions
constituting
a company a
private
company.

PART I.
—cont.

in the second of those enactments shall cease to apply to the company :

Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.

Statement in lieu of prospectus to be delivered to registrar by company on ceasing to be private company.

30.—(1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under section twenty-eight of this Act, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of the alteration, cease to be a private company and shall, within a period of fourteen days after the said date, deliver to the registrar of companies for registration a statement in lieu of prospectus in the form and containing the particulars set out in Part I of the Third Schedule to this Act and, in the cases mentioned in Part II of that Schedule, setting out the reports specified therein, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule :

Provided that a statement in lieu of prospectus need not be delivered under this subsection if within the said period of fourteen days a prospectus relating to the company which complies, or is deemed by virtue of a certificate of exemption under section thirty-nine of this Act to comply, with the Fourth Schedule to this Act, is issued and is delivered to the registrar of companies as required by section forty-one of this Act.

(2) Every statement in lieu of prospectus delivered under the foregoing subsection shall, where the persons making any such report as aforesaid have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in paragraph 5 of the said Third Schedule, have endorsed thereon or attached thereto a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(3) If default is made in complying with subsection (1) or (2) of this section, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.

(4) Where a statement in lieu of prospectus delivered to the registrar of companies under subsection (1) of this section includes any untrue statement, any person who authorised the

delivery of the statement in lieu of prospectus for registration shall be liable—

PART I.
—cont

- (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 untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true.

(5) For the purposes of this section—

- (a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
- (b) a statement shall be deemed to be included in a 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.

Reduction of Number of Members below Legal Minimum.

31. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members, or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.

Members severally liable for debts where business carried on with fewer than seven, or in case of private company two, members

Contracts, &c.

32.—(1) Contracts on behalf of a company may be made as follows:—

Form of contracts.

- (a) a contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the company in writing under the common seal of the company;
- (b) a contract which if made between private persons would be by law required to be in writing, signed

PART I.
—cont.

by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied;

- (c) a contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised by this section to be made.

(4) A deed to which a company is a party shall be held to be validly executed according to the law of Scotland on behalf of the company if it is executed in accordance with the provisions of this Act or is sealed with the common seal of the company and subscribed on behalf of the company by two of the directors or by a director and the secretary of the company, and such subscription on behalf of the company shall be binding whether attested by witnesses or not.

Bills of exchange and promissory notes.

33. A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a company if made, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

Execution of deeds abroad.

34.—(1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in the United Kingdom.

(2) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the same effect as if it were under its common seal.

Power for company to have official seal for use abroad.

35.—(1) A company whose objects require or comprise the transaction of business in foreign countries may, if authorised by its articles, have for use in any territory, district, or place not situate in the United Kingdom, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) A company having an official seal for use in any such territory, district or place may, by writing under its common seal, authorise any person appointed for the purpose in that territory, district or place to affix the official seal to any deed or other document to which the company is party in that territory, district or place.

(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(5) The person affixing any such official seal shall, by writing under his hand, certify on the deed or other instrument to which the seal is affixed the date on which and the place at which it is affixed.

Authentication of Documents.

36. A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal. Authentica-
tion of
documents.

PART II.

SHARE CAPITAL AND DEBENTURES.

Prospectus.

37. A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus. Dating of
prospectus.

38.—(1) Subject to the provisions of the next following section, every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state the matters specified in Part I of the Fourth Schedule to this Act and set out the reports specified in Part II of that Schedule, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule. Matters to be
stated and
reports to be
set out in
prospectus.

(2) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

PART II.
—*cont.*

(3) Subject to the provisions of the next following section, it shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section:

Provided that this subsection shall not apply if it is shown that the form of application was issued either—

- (a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or
- (b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this subsection, he shall be liable to a fine not exceeding five hundred pounds.

(4) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

- (a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or
- (c) the non-compliance or contravention was in respect of matters which in the opinion of the court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph 16 of the Fourth Schedule to this Act, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(5) This section shall not apply—

- (a) to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; or
- (b) 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;

PART II.
—cont

but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on or with reference to the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

39.—(1) Where—

(a) it is proposed to offer any shares in or debentures of a company to the public by a prospectus issued generally (that is to say, issued to persons who are not existing members or debenture holders of the company); 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;

Exclusion of foregoing section and relaxation of Fourth Schedule in case of certain prospectuses

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 this Act would be unduly burdensome.

(2) 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 this Act; and

(b) the last foregoing section 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.

40.—(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—

(a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his

Expert's consent to issue of prospectus containing statement by him.

PART II.
—cont.

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.

(2) If any prospectus is issued in contravention of this section 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.

(3) In this section the expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

Registration
of prospectus.

41.—(1) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless, on or before the date of its publication, there has been delivered to the registrar of companies for registration a copy thereof signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, and having endorsed thereon or attached thereto—

- (a) any consent to the issue of the prospectus required by the last foregoing 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 14 of the Fourth Schedule to this Act to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof or, if in the case of a prospectus deemed by virtue of a certificate granted under section thirty-nine of this Act to comply with the requirements of that Schedule a contract or a copy thereof or a memorandum of a contract is required to be available for inspection in connection with the application made under that section to the stock exchange, a copy or, as the case may be, a memorandum of that contract; 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 paragraph 29 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

The references in sub-paragraph (i) of paragraph (b) of this subsection to the copy of a contract required thereby to be endorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a foreign language, be taken as references to a copy of a translation of the contract 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, and the reference to a copy of a contract required to be available for inspection shall include a reference to a copy of a translation thereof or a copy embodying a translation of parts thereof.

(2) Every prospectus shall, on the face of it,—

- (a) state that a copy has been delivered for registration as required by this section; and
- (b) specify, or refer to statements included in the prospectus which specify, any documents required by this section to be endorsed on or attached to the copy so delivered.

(3) The registrar shall not register a prospectus unless it is dated and the copy thereof signed in manner required by this section and unless it has endorsed thereon or attached thereto the documents (if any) specified as aforesaid.

(4) If a prospectus is issued without a copy thereof being delivered under this section to the registrar or without the copy so delivered having endorsed thereon or attached thereto the required documents, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so delivered with the required documents endorsed thereon or attached thereto.

42.—(1) A company limited by shares or a company limited by guarantee and having a share capital shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus, or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

(2) This section shall not apply to a private company.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

43.—(1) Subject to the provisions of this section, where a prospectus invites persons to subscribe for shares in or debentures of a company, the following persons shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement included therein, that is to say:—

Civil liability for mis-statements in prospectus.

- (a) every person who is a director of the company at the time of the issue of the prospectus;

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- (b) every person who has authorised himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time;
- (c) every person being a promoter of the company; and
- (d) every person who has authorised the issue of the prospectus:

Provided that where, under section forty of this Act, the consent of a person is required to the issue of a prospectus and he has given that consent, he shall not by reason of his having given it be liable under this subsection as a person who has authorised the issue of the prospectus except in respect of an untrue statement purporting to be made by him as an expert.

(2) No person shall be liable under subsection (1) of this section if he proves—

- (a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
- (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
- (c) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto and gave reasonable public notice of the withdrawal and of the reason therefor; or
- (d) that—

(i) as regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, 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; and

(ii) as regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, and he 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 that person had given the consent required by section forty of 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

(iii) as regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document:

Provided that this subsection shall not apply in the case of a person liable, by reason of his having given a consent required of him by the said section forty, as a person who has authorised the issue of the prospectus in respect of an untrue statement purporting to be made by him as an expert.

(3) A person who, apart from this subsection would under subsection (1) of this section be liable, by reason of his having given a consent required of him by section forty of this Act, as a person who has authorised the issue of a prospectus in respect of an untrue statement purporting to be made by him as an expert shall not be so liable if he proves—

- (a) that, having given his consent under the said section forty to the issue of the prospectus, he withdrew it in writing before delivery of a copy of the prospectus for registration; or
- (b) 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
- (c) 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.

(4) Where—

- (a) the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof; or

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—*cont.*

- (b) the consent of a person is required under section forty of this Act to the issue of the prospectus and he either has not given that consent or has withdrawn it before the issue of the prospectus;

the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof shall be liable to indemnify the person named as aforesaid or whose consent was required as aforesaid, as the case may be, against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or of the inclusion therein of a statement purporting to be made by him as an expert, as the case may be, or in defending himself against any action or legal proceeding brought against him in respect thereof:

Provided that a person shall not be deemed for the purposes of this subsection to have authorised the issue of a prospectus by reason only of his having given the consent required by section forty of this Act to the inclusion therein of a statement purporting to be made by him as an expert.

(5) For the purposes of this section—

- (a) the expression “ promoter ” means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company; and
- (b) the expression “ expert ” has the same meaning as in section forty of this Act.

Criminal liability for mis-statements in prospectus.

44.—(1) Where a prospectus issued after the commencement of this Act includes any untrue statement, any person who authorised the issue of the prospectus shall be liable—

- (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 section forty of this Act to the inclusion therein of a statement purporting to be made by him as an expert.

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45.—(1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof.

Document containing offer of shares or debentures for sale to be deemed prospectus.

(2) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown—

- (a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or
- (b) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section thirty-eight of this Act as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus—

- (a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and
- (b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected;

and section forty-one of this Act as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the

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document aforesaid is signed on behalf of the company or firm by two directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.

Interpreta-
tion of
provisions
relating to
prospectuses.

46. For the purposes of the foregoing provisions of this Part of this Act—

- (a) 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; and
- (b) a statement shall be deemed to be included in a 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.

Allotment.

Prohibition of
allotment un-
less minimum
subscription
received.

47.—(1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors, must be raised by the issue of share capital in order to provide for the matters specified in paragraph 4 of the Fourth Schedule to this Act has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the company.

For the purposes of this subsection, a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid.

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as "the minimum subscription".

(3) The amount payable on application on each share shall not be less than five per cent. of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within forty-eight days after the issue of the prospectus, 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 forty-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.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

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(6) This section, except subsection (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

48.—(1) A company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least three days before the first allotment of either shares or debentures there has been delivered to the registrar of companies for registration a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in Part I of the Fifth Schedule to this Act and, in the cases mentioned in Part II of that Schedule, setting out the reports specified therein, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule.

Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to registrar.

(2) Every statement in lieu of prospectus delivered under the foregoing subsection shall, where the persons making any such report as aforesaid have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in paragraph 5 of the said Fifth Schedule, have endorsed thereon or attached thereto a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(3) This section shall not apply to a private company.

(4) If a company acts in contravention of subsection (1) or (2) of this section, the company and every director of the company who knowingly and wilfully authorises or permits the contravention shall be liable to a fine not exceeding one hundred pounds.

(5) Where a statement in lieu of prospectus delivered to the registrar of companies under subsection (1) of this section includes any untrue statement, any person who authorised the delivery of the statement in lieu of prospectus for registration shall be liable—

(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

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—cont.

- (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 untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true.

(6) For the purposes of this section—

- (a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
 (b) a statement shall be deemed to be included in a 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.

Effect of
irregular
allotment.

49.—(1) An allotment made by a company to an applicant in contravention of the provisions of the two last foregoing sections shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes, or permits or authorises the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby:

Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

Applications
for, and
allotment of,
shares and
debentures.

50.—(1) No allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally 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.

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 forty-three of this 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 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.

(7) This section shall not apply in relation to a prospectus to which paragraph (a) or (b) of subsection (2) of section thirty-nine of this Act applies.

51.—(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

Allotment of shares and debentures to be dealt in on stock exchange.

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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) 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.

(6) 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.

52.—(1) Whenever a company limited by shares or a company limited by guarantee and having a share capital makes any allotment of its shares, the company shall within one month thereafter deliver to the registrar of companies for registration—

- Return as to allotments
- (a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount, if any, paid or due and payable on each share; and
 - (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above mentioned is not reduced to writing, the company shall within one month after the allotment deliver to the registrar of companies for registration the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Act, 1891, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section twelve of that Act.

54 & 55 Vict.
c. 39.

(3) If default is made in complying with this section, every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds for every day during which the default continues:

Provided that, in case of default in delivering to the registrar of companies within one month after the allotment any document required to be delivered by this section, the company,

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or any officer liable for the default, may apply to the court for relief, and the court, if satisfied that the omission to deliver the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the court may think proper.

Commissions and Discounts, &c.

Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, &c.

53.—(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if—

- (a) the payment of the commission is authorised by the articles; and
- (b) the commission paid or agreed to be paid does not exceed ten per cent. of the price at which the shares are issued or the amount or rate authorised by the articles, whichever is the less; and
- (c) the amount or rate per cent. of the commission paid or agreed to be paid is—
 - (i) in the case of shares offered to the public for subscription, disclosed in the prospectus; or
 - (ii) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and delivered before the payment of the commission to the registrar of companies for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and
- (d) the number of shares which persons have agreed to a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the

company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.

(4) A vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

(5) If default is made in complying with the provisions of this section relating to the delivery to the registrar of the statement in the prescribed form, the company and every officer of the company who is in default shall be liable to a fine not exceeding twenty-five pounds.

(6) Nothing in this section shall affect the operation of sub-section (2) of section three of the Gas Undertakings Act, 1934 (which limits the rate at which commission may be paid by gas undertakers). 24 & 25 Geo. 5. c. 28.

54.—(1) Subject as provided in this section, it shall not be lawful for a company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares in the company, or, where the company is a subsidiary company, in its holding company: Prohibition of provision of financial assistance by company for purchase of or subscription for its own, or its holding company's, shares.

Provided that nothing in this section shall be taken to prohibit—

- (a) where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business;
- (b) the provision by a company, in accordance with any scheme for the time being in force, of money for the purchase of, or subscription for, fully-paid shares in the company or its holding company, being a purchase or subscription by trustees of or for shares to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company;
- (c) the making by a company of loans to persons, other than directors, bona fide in the employment of the

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company with a view to enabling those persons to purchase or subscribe for fully-paid shares in the company or its holding company to be held by themselves by way of beneficial ownership.

(2) If a company acts in contravention of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

Construction of References to offering Shares or Debentures to the Public.

Construction of references to offering shares or debentures to the public.

55.—(1) Any reference in this Act 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 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 this Act relating to private companies shall be construed accordingly.

Issue of Shares at Premium and Discount and Redeemable Preference Shares.

Application of premiums received on issue of shares.

56.—(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 this 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.

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—cont.

(2) The share premium account may, notwithstanding anything in the foregoing subsection, 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; or
- (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.

(3) Where a company has before the commencement of this Act issued any shares at a premium, this section shall apply as if the shares had been issued after the commencement of this Act:

Provided that any part of the premiums which has been so applied that it does not at the commencement of this Act form an identifiable part of the company's reserves within the meaning of the Eighth Schedule to this Act shall be disregarded in determining the sum to be included in the share premium account.

57.—(1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued:

Power to
issue shares at
a discount.

Provided that—

- (a) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company, and must be sanctioned by the court;
- (b) the resolution must specify the maximum rate of discount at which the shares are to be issued;
- (c) not less than one year must at the date of the issue have elapsed since the date on which the company was entitled to commence business;
- (d) the shares to be issued at a discount must be issued within one month after the date on which the issue is sanctioned by the court or within such extended time as the court may allow.

(2) Where a company has passed a resolution authorising the issue of shares at a discount, it may apply to the court for an order sanctioning the issue, and on any such application the court, if, having regard to all the circumstances of

PART II.
—cont.

the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.

(3) Every prospectus relating to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the prospectus.

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 default fine.

Power to issue
redeemable
preference
shares.

58.—(1) Subject to the provisions of this section, a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed:

Provided that—

- (a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption;
- (b) no such shares shall be redeemed unless they are fully paid;
- (c) the premium, if any, payable on redemption, must have been provided for out of the profits of the company or out of the company's share premium account before the shares are redeemed;
- (d) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "the capital redemption reserve fund", a sum equal to the nominal amount of the shares redeemed, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company.

(2) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(3) The redemption of preference shares under this section by a company shall not be taken as reducing the amount of the company's authorised share capital.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purposes of any enactments relating to stamp duty be deemed to be increased by the issue of shares in pursuance of this subsection:

PART II.
—cont.

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this subsection unless the old shares are redeemed within one month after the issue of the new shares.

(5) The capital redemption reserve fund may, notwithstanding anything in 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.

Miscellaneous Provisions as to Share Capital.

59. A company, if so authorised by its articles, may do any one or more of the following things—

(a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;

(b) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;

(c) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power of company to arrange for different amounts being paid on shares.

60. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Reserve liability of limited company.

61.—(1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorised by its articles, may alter the conditions of its memorandum as follows, that is to say, it may—

(a) increase its share capital by new shares of such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

Power of company limited by shares to alter its share capital.

PART II.
—cont.

- (c) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination;
- (d) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;
- (e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section must be exercised by the company in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

Notice to registrar of consolidation of share capital, conversion of shares into stock, &c.

62.—(1) If a company having a share capital has—

- (a) consolidated and divided its share capital into shares of larger amount than its existing shares; or
- (b) converted any shares into stock; or
- (c) re-converted stock into shares; or
- (d) subdivided its shares or any of them; or
- (e) redeemed any redeemable preference shares; or
- (f) cancelled any shares, otherwise than in connection with a reduction of share capital under section sixty-six of this Act;

it shall within one month after so doing give notice thereof to the registrar of companies specifying, as the case may be, the shares consolidated, divided, converted, sub-divided, redeemed or cancelled, or the stock re-converted.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

Notice of increase of share capital.

63.—(1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall, within fifteen days after the passing of the resolution authorising the increase, give to the registrar of companies notice of the increase, and the registrar shall record the increase.

(2) The notice to be given as aforesaid shall include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the registrar of companies together with the notice a printed copy of the resolution authorising the increase.

PART II
—cont

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

64. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely:—

Power of unlimited company to provide for reserve share capital on re-registration.

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;
- (b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

65.—(1) Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant:

Power of company to pay interest out of capital in certain cases.

Provided that—

- (a) no such payment shall be made unless it is authorised by the articles or by special resolution;
- (b) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Board of Trade;
- (c) before sanctioning any such payment the Board of Trade may, at the expense of the company, appoint a person to inquire and report to them as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry;

PART II.
—cont.

- (d) the payment shall be made only for such period as may be determined by the Board of Trade, and that period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided;
- (e) the rate of interest shall in no case exceed four per cent. per annum or such other rate as may for the time being be prescribed by order of the Treasury;
- (f) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;
- (g) nothing in this section shall affect any company to which the Indian Railways Act, 1894, as amended by any subsequent enactment, applies.

57 & 58
Vict. c. 12.

(2) The power conferred by this section on the Treasury shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Reduction of Share Capital.*Special
resolution for
reduction of
share capita .

66.—(1) Subject to confirmation by the court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorised by its articles, by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may—

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or
- (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company;

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act referred to as “ a resolution for reducing share capital ”.

Application to court
for confirming order,
objections by
creditors, and settle-
ment of list of
objecting creditors.

67.—(1) Where a company has passed a resolution for reducing share capital, it may apply to the court for an order confirming the reduction.

(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, the following provisions shall have effect, subject nevertheless to the next following subsection:—

- (a) every creditor of the company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction;
- (b) the court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction;
- (c) where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the court may direct, the following amount:—
 - (i) if the company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim;
 - (ii) if the company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and adjudication as if the company were being wound up by the court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if, having regard to any special circumstances of the case, it thinks proper so to do, direct that subsection (2) of this section shall not apply as regards any class or any classes of creditors.

68.—(1) The court, if satisfied, with respect to every creditor of the company who under the last foregoing section is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been

Order confirm-
ing reduction
and powers of
court on making
such order.

PART II.
—cont.

discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

(2) Where the court makes any such order, it may—

(a) if for any special reason it thinks proper so to do, make an order directing that the company shall, during such period, commencing on or at any time after the date of the order, as is specified in the order, add to its name as the last words thereof the words “ and reduced ”; and

(b) make an order requiring the company to publish as the court directs the reasons for reduction or such other information in regard thereto as the court may think expedient with a view to giving proper information to the public, and, if the court thinks fit, the causes which led to the reduction.

(3) Where a company is ordered to add to its name the words “ and reduced ”, those words shall, until the expiration of the period specified in the order, be deemed to be part of the name of the company.

Registration
of order and
minute of
reduction.

69.—(1) The registrar of companies, on production to him of an order of the court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute approved by the court showing, with respect to the share capital of the company as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration of the order and minute, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.

(6) The substitution of any such minute as aforesaid for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section twenty-five of this Act.

PART II.
—cont

70.—(1) In the case of a reduction of share capital, a member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid, on the share, as the case may be:

Liability of
members in
respect of
reduced shares

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the court, to pay the amount of his debt or claim, then—

- (a) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date; and
- (b) if the company is wound up, the court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

71. If any officer of the company—

- (a) wilfully conceals the name of any creditor entitled to object to the reduction; or
- (b) wilfully misrepresents the nature or amount of the debt or claim of any creditor; or
- (c) aids, abets or is privy to any such concealment or misrepresentation as aforesaid,

Penalty for
concealing
name of
creditor, &c.

he shall be guilty of a misdemeanour.

PART II.

—cont.

Rights of
holders of
special classes
of shares.*Variation of Shareholders' Rights.*

72.—(1) If, in the case of a company the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorising the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per cent. of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the court.

(2) An application under this section must be made within twenty-one days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.

(4) The decision of the court on any such application shall be final.

(5) The company shall within fifteen days after the making of an order by the court on any such application forward a copy of the order to the registrar of companies, and, if default is made in complying with this provision, the company and every officer of the company who is in default shall be liable to a default fine.

(6) The expression "variation" in this section includes abrogation and the expression "varied" shall be construed accordingly.

*Transfer of Shares and Debentures, Evidence of Title, &c.*Nature of
shares.

73. The shares or other interest of any member in a company shall be personal estate, transferable in manner provided by the articles of the company, and shall not be of the nature of real estate.

74. Each share in a company having a share capital shall be distinguished by its appropriate number :

PART II
—cont.
Numbering of
shares.

Provided that, 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 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.

75. Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company :

Transfer not
to be registered
except on
production of
instrument of
transfer.

Provided that nothing in this section shall prejudice any power of the company to register as shareholder or debenture holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

76. A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

Transfer by
personal
representative.

77. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Registration
of transfer
at request of
transferor.

78.—(1) If a company refuses to register a transfer of any shares or debentures, the company shall, within two months after the date on which the transfer was lodged with the company, send to the transferee notice of the refusal.

Notice of
refusal to
register
transfer.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

79.—(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.

Certification
of transfers.

PART II.
—cont.

(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 certifying transfers on the company’s behalf.

Duties of
company
with respect
to issue of
certificates

80.—(1) Every company shall, within two months after the allotment of any of its shares, debentures or debenture stock and within two months after the date on which a transfer of any such shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

The expression “ transfer ” for the purpose of this subsection means a transfer duly stamped and otherwise valid, and does not include such a transfer as the company is for any reason entitled to refuse to register and does not register.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(3) If any company on whom a notice has been served requiring the company to make good any default in complying with the provisions of subsection (1) of this section fails

to make good the default within ten days after the service of the notice, the court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.

PART II.
—*cont.*

81. A certificate, under the common seal of the company, specifying any shares held by any member, shall be prima facie evidence of the title of the member to the shares.

Certificate to be evidence of title

82. The production to a company of any document which is by law sufficient evidence of probate of the will, or letters of administration of the estate, or confirmation as executor, of a deceased person having been granted to some person shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of the grant.

Evidence of grant of probate.

83.—(1) A company limited by shares, if so authorised by its articles, may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares included in the warrant.

Issue and effect of share warrants to bearer.

(2) Such a warrant as aforesaid is in this Act termed a "share warrant".

(3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.

84. If any person falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon, issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner, he shall be guilty of felony, and shall on conviction thereof be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years.

Penalty for personation of shareholder.

85.—(1) If in Scotland any person—

(a) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon, issued in pursuance of this Act; or

Offences in connection with share warrants in Scotland.

PART II.
—cont.

- (b) by means of any such forged or altered share warrant, coupon, or document, purporting as aforesaid, demands or endeavours to obtain or receive any share or interest in any company under this Act, or to receive any dividend or money payable in respect thereof, knowing the warrant, coupon, or document to be forged or altered;

he shall on conviction thereof be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years.

(2) If in Scotland any person without lawful authority or excuse, proof whereof shall lie on him,—

- (a) engraves or makes on any plate, wood, stone, or other material, any share warrant or coupon purporting to be—

(i) a share warrant or coupon issued or made by any particular company in pursuance of this Act; or

(ii) a blank share warrant or coupon so issued or made; or

(iii) a part of such a share warrant or coupon; or

- (b) uses any such plate, wood, stone, or other material, for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively; or

- (c) knowingly has in his custody or possession any such plate, wood, stone, or other material;

he shall on conviction thereof be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years.

Special Provisions as to Debentures

Provisions as to registers of debenture holders.

86.—(1) A company registered in England shall not keep in Scotland and a company registered in Scotland shall not keep in England any register of holders of debentures of the company or any duplicate of any such register or part of any such register which is kept outside Great Britain.

(2) Neither a register of holders of debentures of a company nor a duplicate of any such register or part of any such register which is kept outside Great Britain shall be kept in England, in the case of a company registered in England,

or in Scotland, in the case of a company registered in Scotland, elsewhere than at the registered office of the company, any other office of the company at which the work of making it up is done, or, if the company arranges with some other person for the making up of the register or duplicate to be undertaken on behalf of the company by that other person, at the office of that other person at which the work is done, and where a company keeps in England or Scotland, as the case may be, both such a register and such a duplicate, it shall keep them at the same place.

(3) Every company which keeps any such register or duplicate in England or Scotland shall send notice to the registrar of companies of the place where the register or duplicate 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 or duplicate has, at all times since it came into existence, or in the case of a company which came into existence after the commencement of this Act, at all times since then, been kept at the registered office of the company.

87.—(1) Every register of holders of debentures of a company shall, except when duly closed (but subject to such reasonable restrictions as the company may in general meeting impose, so that not less than two hours in each day shall be allowed for inspection), be open to the inspection of the registered holder of any such debentures or any holder of shares in the company without fee, and of any other person on payment of a fee of one shilling or such less sum as may be prescribed by the company.

Rights of inspection of register of debenture holders and to copies of register and trust deed.

(2) Any such registered holder of debentures or holder of shares as aforesaid or any other person may require a copy of the register of the holders of debentures of the company or any part thereof on payment of sixpence for every hundred words required to be copied.

(3) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of one shilling or such less sum as may be prescribed by the company, or, where the trust deed has not been printed, on payment of sixpence for every hundred words required to be copied.

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds, and further shall be liable to a default fine of two pounds.

PART II.
—cont.

(5) Where a company is in default as aforesaid, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.

(6) For the purposes of this section, a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debentures or debenture stock, during such period or periods, not exceeding in the whole thirty days in any year, as may be therein specified.

Liability of
trustees for
debenture
holders.

88.—(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.

(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 commencement of this Act 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

(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.

89. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Act, shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding. Perpetual debenture.

90.—(1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, then— Power to re-issue redeemed debentures in certain cases.

(a) unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or

(b) unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled;

the company shall have, and shall be deemed always to have had, power to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place.

(2) Subject to the provisions of the next following section, on a re-issue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a company has either before or after the commencement of this Act deposited any of its debentures to

PART II.
—cont.

secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Act, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued:

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

Saving, in case of re-issued debentures, of rights of certain mortgagees.

8 Edw. 7. c. 69.
18 & 19 Geo. 5.
c. 45

91. Whereas by section one hundred and four of the Companies (Consolidation) Act, 1908, it was provided that, upon the re-issue of redeemed debentures, the person entitled to the debentures should have the same rights and priorities as if the debentures had not previously been issued:

And whereas section forty-five of the Companies Act, 1928, amended the said section one hundred and four so as to provide (amongst other things) that the said person should have the same priorities as if the debentures had never been redeemed, but saved, in the case of debentures redeemed before, but re-issued after, the date of the commencement of that Act (that is to say, the first day of November, nineteen hundred and twenty-nine), the rights and priorities of persons under mortgages and charges created before that date:

Now, therefore, where any debentures which were redeemed before the said first day of November have been re-issued after that day and before the commencement of this Act, or are re-issued after the commencement of this Act, the re-issue of the debentures shall not prejudice and shall be deemed never to have prejudiced any right or priority which any person would have had under or by virtue of any such mortgage or charge as aforesaid if the said section one hundred and four, as originally enacted, had been enacted in this Act instead of the last foregoing section.

PART II
—cont.

92. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

Specific performance of contract to subscribe for debentures.

93. It is hereby declared that, notwithstanding anything contained in the statute of the Scots Parliament of 1696, chapter twenty-five, debentures to bearer issued in Scotland are valid and binding according to their terms.

Validity of debentures to bearer in Scotland.

94.—(1) Where, in the case of a company registered in England, either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding up are under the provisions of Part V of this Act relating to preferential payments to be paid in priority to all other debts, shall be paid out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

Payment of certain debts out of assets subject to floating charge in priority to claims under the charge.

(2) In the application of the said provisions, section three hundred and nineteen of this Act shall be construed as if the provision for payment of accrued holiday remuneration becoming payable on the termination of employment before or by the effect of the winding-up order or resolution were a provision for payment of such remuneration becoming payable on the termination of employment before or by the effect of the appointment of the receiver or possession being taken as aforesaid.

(3) The periods of time mentioned in the said provisions of Part V of this Act shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(4) Where the date referred to in the last foregoing subsection occurred before the commencement of this Act, subsections (1) and (3) of this section shall have effect with the substitution, for references to the said provisions of Part V of this Act, of references to the provisions which, by virtue of subsection (9) of the said section three hundred and nineteen are deemed to remain in force in the case therein mentioned, and subsection (2) shall not apply.

(5) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

PART III.

REGISTRATION OF CHARGES.

Registration of Charges with Registrar of Companies.

Registration of charges created by companies registered in England.

95.—(1) Subject to the provisions of this Part of this Act, every charge created after the fixed date by a company registered in England and being a charge to which this section applies shall, so far as any security on the company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge together with the instrument, if any, by which the charge is created or evidenced, are delivered to or received by the registrar of companies for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby shall immediately become payable.

(2) This section applies to the following charges:—

- (a) a charge for the purpose of securing any issue of debentures;
- (b) a charge on uncalled share capital of the company;
- (c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale;
- (d) a charge on land, wherever situate, or any interest therein, but not including a charge for any rent or other periodical sum issuing out of land;
- (e) a charge on book debts of the company;
- (f) a floating charge on the undertaking or property of the company;
- (g) a charge on calls made but not paid;
- (h) a charge on a ship or any share in a ship;
- (i) a charge on goodwill, on a patent or a licence under a patent, on a trademark or on a copyright or a licence under a copyright.

(3) In the case of a charge created out of the United Kingdom comprising property situate outside the United Kingdom, the delivery to and the receipt by the registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in the United Kingdom shall be substituted for twenty-one days after the date of the creation of the charge as the time within which the particulars and instrument or copy are to be delivered to the registrar.

(4) Where a charge is created in the United Kingdom but comprises property outside the United Kingdom, the instrument creating or purporting to create the charge may be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) Where a charge comprises property situate in Scotland or Northern Ireland and registration in the country where the property is situate is necessary to make the charge valid or effectual according to the law of that country, the delivery to and the receipt by the registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced, together with a certificate in the prescribed form stating that the charge was presented for registration in Scotland or Northern Ireland, as the case may be, on the date on which it was so presented shall, for the purposes of this section, have the same effect as the delivery and receipt of the instrument itself.

(6) Where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not, for the purposes of this section, be treated as a charge on those book debts.

(7) The holding of debentures entitling the holder to a charge on land shall not for the purposes of this section be deemed to be an interest in land.

(8) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company, it shall, for the purposes of this section, be sufficient if there are delivered to or received by the registrar, within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars:—

- (a) the total amount secured by the whole series; and
- (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and
- (c) a general description of the property charged; and
- (d) the names of the trustees, if any, for the debenture holders;

together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the registrar for entry

PART III.
—cont.

in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(g) Where any commission, allowance or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent. of the commission, discount or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not, for the purposes of this subsection, be treated as the issue of the debentures at a discount.

(10) In this Part of this Act—

(a) the expression “ charge ” includes mortgage;

(b) the expression “ the fixed date ” means in relation to the charges specified in paragraphs (a) to (f), both inclusive, of subsection (2) of this section, the first day of July, nineteen hundred and eight, and in relation to the charges specified in paragraphs (g) to (i), both inclusive, of the said subsection, the first day of November, nineteen hundred and twenty-nine.

Duty of
company to
register
charges
created by
company.

96.—(1) It shall be the duty of a company to send to the registrar of companies for registration the particulars of every charge created by the company and of the issues of debentures of a series requiring registration under the last foregoing section, but registration of any such charge may be effected on the application of any person interested therein.

(2) Where registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

(3) If any company makes default in sending to the registrar for registration the particulars of any charge created by the company or of the issues of debentures of a series requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.

97.—(1) Where a company registered in England acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part of this Act, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the registrar of companies for registration in manner required by this Act within twenty-one days after the date on which the acquisition is completed:

PART III
—cont
Duty of company to register charges existing on property acquired.

Provided that, if the property is situate and the charge was created outside Great Britain, twenty-one days after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received in the United Kingdom shall be substituted for twenty-one days after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the registrar.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.

98.—(1) The registrar of companies shall keep, with respect to each company, a register in the prescribed form of all the charges requiring registration under this Part of this Act, and shall, on payment of such fee as may be specified by regulations made by the Board of Trade, enter in the register with respect to such charges the following particulars:—

Register of charges to be kept by registrar of companies

- (a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in subsection (8) of section ninety-five of this Act;
- (b) in the case of any other charge—
 - (i) if the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property; and
 - (ii) the amount secured by the charge; and
 - (iii) short particulars of the property charged; and
 - (iv) the persons entitled to the charge.

(2) The registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part of this Act, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part of this Act as to registration have been complied with.

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—cont.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of such fee, not exceeding one shilling for each inspection as may be specified by regulations made by the Board of Trade.

(4) The powers to make regulations conferred by this section on the Board of Trade shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Endorsement
of certificate
of registration
on debentures.

99.—(1) The company shall cause a copy of every certificate of registration given under the last foregoing section to be endorsed on every debenture or certificate of debenture stock which is issued by the company and the payment of which is secured by the charge so registered:

Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the company before the charge was created.

(2) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have endorsed on it a copy of a certificate of registration without the copy being so endorsed upon it, he shall, without prejudice to any other liability, be liable to a fine not exceeding one hundred pounds.

Entries of
satisfaction
and release of
property
from charge.

100. The registrar of companies, on evidence being given to his satisfaction with respect to any registered charge,—

- (a) that the debt for which the charge was given has been paid or satisfied in whole or in part; or
- (b) that 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;

may enter on the register a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be, and where he enters a memorandum of satisfaction in whole he shall, if required, furnish the company with a copy thereof.

Rectification
of register of
charges.

101. The court, on being satisfied that the omission to register a charge within the time required by this Act or that the omission or mis-statement of any particular with respect to any such charge or in a memorandum of satisfaction was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of

the company or any person interested, and on such terms and conditions as seem to the court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or mis-statement shall be rectified.

102.—(1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the said powers, give notice of the fact to the registrar of companies, and the registrar shall, on payment of such fee as may be specified by regulations made by the Board of Trade, enter the fact in the register of charges. Registration of enforcement of security

(2) Where any person appointed receiver or manager of the property of a company under the powers contained in any instrument ceases to act as such receiver or manager, he shall, on so ceasing, give the registrar of companies notice to that effect, and the registrar shall enter the notice in the register of charges.

(3) If any person 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.

(4) The power conferred by this section on the Board of Trade shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges.

103. Every company shall cause a copy of every instrument creating any charge requiring registration under this Part of this Act to be kept at the registered office of the company: Copies of instruments creating charges to be kept by company

Provided that, in the case of a series of uniform debentures, a copy of one debenture of the series shall be sufficient.

104.—(1) Every limited company shall keep at the registered office of the company a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto. Company's register of charges

(2) If any officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding fifty pounds.

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—cont.

Right to inspect copies of instruments creating mortgages and charges and company's register of charges.

105.—(1) The copies of instruments creating any charge requiring registration under this Part of this Act with the registrar of companies, and the register of charges kept in pursuance of the last foregoing section, shall be open during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee, not exceeding one shilling for each inspection, as the company may prescribe.

(2) If inspection of the said copies or register is refused, every officer of the company who is in default shall be liable to a fine not exceeding five pounds and a further fine not exceeding two pounds for every day during which the refusal continues.

(3) If any such refusal occurs in relation to a company registered in England, the court may by order compel an immediate inspection of the copies or register.

Application of Part III to Companies incorporated outside England.

Application of Part III to charges created, and property subject to charge acquired, by company incorporated outside England.

106. The provisions of this Part of this Act shall extend to charges on property in England which are created, and to charges on property in England which is acquired, by a company (whether a company within the meaning of this Act or not) incorporated outside England which has an established place of business in England.

PART IV.

MANAGEMENT AND ADMINISTRATION.

Registered Office and Name.

Registered office of company

107.—(1) A company shall, as from the day on which it begins to carry on business or as from the fourteenth day after the date of its incorporation, whichever is the earlier, have a registered office to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office, and of any change therein, shall be given within fourteen days after the date of the incorporation of the company or of the change, as the case may be, to the registrar of companies, who shall record the same.

The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this subsection.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

108.—(1) Every company—

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—cont.

- (a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible;
- (b) shall have its name engraven in legible characters on its seal;
- (c) shall have its name mentioned in legible characters in all business letters of the company and in all notices and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

(2) If a company does not paint or affix its name in manner directed by this Act, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds, and if a company does not keep its name painted or affixed in manner so directed, the company and every officer of the company who is in default shall be liable to a default fine.

(3) If a company fails to comply with paragraph (b) or paragraph (c) of subsection (1) of this section, the company shall be liable to a fine not exceeding fifty pounds.

(4) If an officer of a company or any person on its behalf—

- (a) uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid; or
- (b) issues or authorises the issue of any business letter of the company or any notice or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque or order for money or goods wherein its name is not mentioned in manner aforesaid; or
- (c) issues or authorises the issue of any bill of parcels, invoice, receipt or letter of credit of the company wherein its name is not mentioned in manner aforesaid;

he shall be liable to a fine not exceeding fifty pounds, and shall further be personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount thereof unless it is duly paid by the company.

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—cont.

Restrictions on Commencement of Business.

Restrictions on
commence-
ment of
business.

109.—(1) Where a company having a share capital has issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless—

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and
- (c) 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 to obtain permission for the shares or debentures to be dealt in on any stock exchange; and
- (d) there has been delivered to the registrar of companies for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with.

(2) Where a company having a share capital has not issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless—

- (a) there⁷ has been delivered to the registrar of companies for registration a statement in lieu of prospectus; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash; and
- (c) there has been delivered to the registrar of companies for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that paragraph (b) of this subsection has been complied with.

(3) The registrar of companies shall, on the delivery to him of the said statutory declaration, and, in the case of a company which is required by this section to deliver

a statement in lieu of prospectus, of such a statement, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(4) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(6) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.

(7) Nothing in this section shall apply to—

- (a) a private company; or
- (b) a company registered before the first day of January, nineteen hundred and one; or
- (c) a company registered before the first day of July, nineteen hundred and eight, which has not issued a prospectus inviting the public to subscribe for its shares.

Register of Members.

110.—(1) Every company shall keep a register of its members and enter therein the following particulars:— Register of members.

- (a) the names and addresses of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number so long as the share has a number, and of the amount paid or agreed to be considered as paid on the shares of each member;
- (b) the date at which each person was entered in the register as a member;
- (c) the date at which any person ceased to be a member:

Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the registrar of companies, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this subsection.

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—cont

(2) The register of members shall be kept at the registered office of the company:

Provided that,—

- (a) if the work of making it up is done at another office of the company, it may be kept at that other office; and
- (b) if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, it may be kept at the office of that other person at which the work is done;

so, however, that it shall not be kept, in the case of a company registered in England, at a place outside England, and, in the case of a company registered in Scotland, at a place outside Scotland.

(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 commencement of this Act, at all times since then, been kept at the registered office of the company.

(4) Where a company makes default in complying with subsection (1) of this section or makes default for fourteen days in complying with the last foregoing subsection, the company and every officer of the company who is in default shall be liable to a default fine.

Index of
members

111.—(1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall, within fourteen days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

(2) The index shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(3) The index shall be at all times kept at the same place as the register of members.

(4) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

112.—(1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:—

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares included in the warrant, distinguishing each share by its number so long as the share has a number; and
- (c) the date of the issue of the warrant.

(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(3) The company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) Until the warrant is surrendered, the particulars specified in subsection (1) of this section shall be deemed to be the particulars required by this Act to be entered in the register of members, and, on the surrender, the date of the surrender must be entered.

(5) Subject to the provisions of this Act, the bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles.

113.—(1) Except when the register of members is closed under the provisions of this Act, the register, and index of the names, of the members of a company shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of sixpence, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied.

The company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the company.

PART IV.
—cont.
Provisions
as to entries
in register in
relation to
share
warrants.

Inspection of
register and
index.

PART IV.
—cont

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding two pounds and further to a default fine of two pounds.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.

Consequences of failure to comply with requirements as to register owing to agent's default

114. Where, by virtue of proviso (b) to subsection (2) of section one hundred and ten of this Act, the register of members is kept at the office of some person other than the company, and by reason of any default of his the company fails to comply with subsection (3) of that section, subsection (3) of section one hundred and eleven of this Act, or the last foregoing section or with any requirements of this Act as to the production of the register, that other person shall be liable to the same penalties as if he were an officer of the company who was in default, and the power of the court under subsection (4) of the last foregoing section shall extend to the making of orders against that other person and his officers and servants.

Power to close register.

115. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power of court to rectify register.

116.—(1) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member;

the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) Where an application is made under this section, the court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted

from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

PART IV.
—cont.

(4) In the case of a company required by this Act to send a list of its members to the registrar of companies, the court, when making an order for rectification of the register shall by its order direct notice of the rectification to be given to the registrar.

117. No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar, in the case of companies registered in England.

Trusts not to be entered on register in England.

118. The register of members shall be prima facie evidence of any matters by this Act directed or authorised to be inserted therein.

Register to be evidence.

Dominion Register.

119.—(1) A company having a share capital whose objects comprise the transaction of business in any part of His Majesty's dominions outside Great Britain, the Channel Islands or the Isle of Man may cause to be kept in any such part of His Majesty's dominions in which it transacts business a branch register of members resident in that part (in this Act called a "dominion register").

Power for company to keep dominion register

(2) The company shall give to the registrar of companies notice of the situation of the office where any dominion register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be given within fourteen days of the opening of the office or of the change or discontinuance, as the case may be.

(3) If default is made in complying with subsection (2) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) References to a colonial register occurring in any articles registered before the first day of November, nineteen hundred and twenty-nine, shall be construed as references to a dominion register.

120.—(1) A dominion register shall be deemed to be part of the company's register of members (in this section called "the principal register").

Regulations as to dominion register

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the

PART IV
—cont.

advertisement before closing the register shall be inserted in some newspaper circulating in the district where the dominion register is kept, and that any competent court in that part of His Majesty's dominions where the register is kept may exercise the same jurisdiction of rectifying the register as is under this Act exercisable by the court, and that the offences of refusing inspection or copies of a dominion register, and of authorising or permitting the refusal may be prosecuted summarily before any tribunal having summary criminal jurisdiction in that part of His Majesty's dominions.

(3) The company shall—

- (a) transmit to its registered office a copy of every entry in its dominion register as soon as may be after the entry is made; and
- (b) cause to be kept at the place where the company's principal register is kept a duplicate of its dominion register duly entered up from time to time.

Every such duplicate shall for all the purposes of this Act be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a dominion register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a dominion register shall, during the continuance of that registration, be registered in any other register.

(5) A company may discontinue to keep a dominion register, and thereupon all entries in that register shall be transferred to some other dominion register kept by the company in the same part of His Majesty's dominions or to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such provisions as it may think fit respecting the keeping of dominion registers.

(7) If default is made in complying with subsection (3) of this section, the company and every officer of the company who is in default shall be liable to a default fine; and where, by virtue of proviso (b) to subsection (2) of section one hundred and ten of this Act, the principal register is kept at the office of some person other than the company and by reason of any default of his the company fails to comply with paragraph (b) of subsection (3) of this section, he shall be liable to the same penalty as if he were an officer of the company who was in default.

121. An instrument of transfer of a share registered in a dominion register, other than such a register kept in Northern Ireland, shall be deemed to be a transfer of property situate out of the United Kingdom, and, unless executed in any part of the United Kingdom, shall be exempt from stamp duty chargeable in Great Britain.

PART IV
—cont.
Stamp duties in case of shares registered in dominion registers.

122.—(1) The Foreign Jurisdiction Act, 1890, shall have effect as if the last three foregoing sections were included among the enactments which by virtue of section five of that Act may be applied by Order in Council to foreign countries in which for the time being His Majesty has jurisdiction.

Power to extend provisions as to dominion registers to other countries.
53 & 54 Vict. c. 37.

(2) His Majesty may by Order in Council direct that the said sections, including any enactments for the time being in force amending or substituted for those sections, shall extend, with or without any exceptions, adaptations or modifications specified in the Order, to any territories under His Majesty's protection to which those sections cannot be extended under the Foreign Jurisdiction Act, 1890, as amended by subsection (1) of this section.

His Majesty may by Order in Council revoke or vary any Order made under this subsection.

123.—(1) If by virtue of the law in force in any part of His Majesty's dominions outside Great Britain companies incorporated under that law have power to keep in Great Britain branch registers of their members resident in Great Britain, His Majesty may by Order in Council direct that subsection (2) of section one hundred and ten (except the proviso thereto) and sections one hundred and thirteen and one hundred and sixteen of this Act shall, subject to any modifications and adaptations specified in the Order, apply to and in relation to any such branch registers kept in Great Britain as they apply to and in relation to the registers of companies within the meaning of this Act.

Provisions as to branch registers of dominion companies kept in the United Kingdom.

(2) For the purposes of this section, the expression " His Majesty's dominions " includes any territory which is under His Majesty's protection or in respect of which a mandate under the League of Nations has been accepted by His Majesty.

(3) For the purposes of the Mandated and Trust Territories Act, 1947 (which makes provision as to the application and modification of enactments in relation to such mandates as aforesaid and the trusteeship system of the United Nations), subsections (1) and (2) of this section shall be deemed to be contained in an Act of an earlier session than that Act.

11 & 12 Geo. 6. c. 8.

*Annual Return.*PART IV.
—cont.

Annual return
to be made by
company
having a share
capital.

124.—(1) Every company having a share capital shall, once at least in every year, make a return containing with respect to the registered office of the company, registers of members and debenture holders, shares and debentures, indebtedness, past and present members and directors and secretary, the matters specified in Part I of the Sixth Schedule to this Act, and the said return shall be in the form set out in Part II of that Schedule or as near thereto as circumstances admit:

Provided that—

- (a) a company need not make a return under this subsection either in the year of its incorporation or, if it is not required by section one hundred and thirty-one of this Act to hold an annual general meeting during the following year, in that year;
- (b) where the company has converted any of its shares into stock and given notice of the conversion to the registrar of companies, the list referred to in paragraph 5 of Part I of the said Sixth Schedule must state the amount of stock held by each of the existing members instead of the amount of shares and the particulars relating to shares required by that paragraph;
- (c) the return 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 the said paragraph 5, give only such of the particulars required by that paragraph 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; and
- (d) the annual return of a company made next after the expiry of paragraph (1) of regulation three 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 the said paragraph 5 as to past members of the company or as to shares transferred.

- (2) In the case of a company keeping a dominion register—
- (a) references in proviso (c) to the foregoing subsection to the particulars required by the said paragraph 5 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 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 register of members.
- (3) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.
- (4) For the purposes of this section and of Part I of the Sixth Schedule to this Act the expressions "director" and "officer" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

- 125.—(1) Every company not having a share capital shall once at least in every calendar year make a return stating—
- (a) the address of the registered office of the company;
 - (b) in a case in which the register of members is, under the provisions of this Act, kept elsewhere than at that office, the address of the place where it is kept;
 - (c) in a case in which any register of holders of debentures of the company or any duplicate of any such register or part of any such register is, under the provisions of this Act, kept, in England in the case of a company registered in England or in Scotland in the case of a company registered in Scotland, elsewhere than at the registered office of the company, the address of the place where it is kept;
 - (d) all such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is secretary of the company as are by this Act required to
- Annual return to be made by company not having a share capital.

PART IV.
—cont.

be contained with respect to directors and the secretary respectively in the register of directors and secretaries of a company:

Provided that a company need not make a return under this subsection either in the year of its incorporation or, if it is not required by section one hundred and thirty-one of this Act to hold an annual general meeting during the following year, in that year.

(2) There shall be annexed to the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required (or, in the case of a company registered in Scotland, which, if the company had been registered in England, would be required) to be registered with the registrar of companies under this Act, or which would have been required so to be registered if created after the first day of July, nineteen hundred and eight.

(3) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(4) For the purposes of this section the expressions "officer" and "director" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Time for
completion of
annual return.

126.—(1) The annual return must be completed within forty-two days after the annual general meeting for the year, 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, and the company must forthwith forward to the registrar of companies a copy signed both by a director and by the secretary of the company.

(2) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

For the purposes of this subsection the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Documents to
be annexed to
annual return.

127.—(1) Subject to the provisions of this Act, there shall be annexed to the annual return—

(a) a written copy, certified both by a director and by the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which the return relates (including every document required by law to be annexed to the balance sheet); and

- (b) a copy, certified as aforesaid, of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet;

and where any such balance sheet or document required by law to be annexed thereto is in a foreign language, there shall be annexed to that balance sheet a translation in English of the balance sheet or document certified in the prescribed manner to be a correct translation.

(2) If any such balance sheet as aforesaid or document required by law to be annexed thereto did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets or documents aforesaid, as the case may be, there shall be made such additions to and corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with the said requirements, and the fact that the copy has been so amended shall be stated thereon.

(3) If a company fails to comply with this section, the company and every officer of the company who is in default shall be liable to a default fine.

For the purposes of this subsection, the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

(4) This section shall not apply to an assurance company which has complied with the provisions of subsection (4) of section seven of the Assurance Companies Act, 1909.

9 Edw. 7. c. 49

128. A private company shall send with the annual return required by section one hundred and twenty-four of this Act a certificate signed both by a director and by the secretary of the company that the company has not, since the date of the last return, or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and, where the annual return discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under paragraph (b) of subsection (1) of section twenty-eight of this Act are not to be included in reckoning the number of fifty.

Certificates to be sent by private company with annual return.

129.—(1) A private company shall be excepted from the requirements imposed by section one hundred and twenty-seven of this Act if, but only if,—

Exemption, in certain cases, of private companies, from requirements of s. 127

- (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 commencement of this Act; and

PART IV.
—cont.

- (b) there is sent with the return a certificate, signed by the persons signing the certificates required to be so sent by the last foregoing section, 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 Seventh 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.

(3) A prosecution shall not be instituted in England in respect of any failure of a private company to comply with section one hundred and twenty-seven of this 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 commencement of this Act 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 commencement of this Act shall, in relation to a company first registered after the commencement of this Act, be construed as referring to the conditions having been satisfied since the company's registration.

Meetings and Proceedings.

PART IV

—cont.

130.—(1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting".

Statutory
meeting and
statutory
report.

(2) The directors shall, at least fourteen days before the day on which the meeting is held, forward a report (in this Act referred to as "the statutory report") to every member of the company:

Provided that if the statutory report is forwarded later than is required by this subsection, it shall, notwithstanding that fact, be deemed to have been duly forwarded if it is so agreed by all the members entitled to attend and vote at the meeting.

(3) The statutory report shall be certified by not less than two directors of the company and shall state—

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;
- (c) an abstract of the receipts of the company and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;
- (d) the names, addresses and descriptions of the directors, auditors, if any, managers, if any, and secretary of the company; and
- (e) the particulars of any contract the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

PART IV.
—*cont.*

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors, if any, of the company.

(5) The directors shall cause a copy of the statutory report, certified as required by this section, to be delivered to the registrar of companies for registration forthwith after the sending thereof to the members of the company.

(6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) In the event of any default in complying with the provisions of this section, 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 shall be liable to a fine not exceeding fifty pounds.

(10) This section shall not apply to a private company.

Annual
general
meeting.

131.—(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) If default is made in holding a meeting of the company in accordance with the foregoing subsection, the Board of Trade may, on the application of any member of the

company, call, or direct the calling of, a general meeting of the company and 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; and it is hereby declared that the directions that may be given under this subsection include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(3) A general meeting held in pursuance of the last foregoing subsection 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.

(5) If default is made in holding a meeting of the company in accordance with subsection (1) of this section, or in complying with any directions of the Board of Trade under subsection (2) thereof, 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 (4) of this section, the company and every officer of the company who is in default shall be liable to a default fine of two pounds.

132.—(1) The directors of a company, notwithstanding anything in its articles, shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company, or, in the case of a company not having a share capital, members of the company representing not less than one-tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

Convening of
extraordinary
general
meeting on
requisition.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form each signed by one or more requisitionists.

PART IV.
—cont.

(3) If the directors do not within twenty-one days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section one hundred and forty-one of this Act.

Length of
notice for
calling
meetings.

133.—(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 a shorter notice than—

- (a) in the case of the annual general meeting, twenty-one days' notice in writing; and
- (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution, fourteen days' notice in writing in the case of a company other than an unlimited company and seven days' notice in writing in the case of an unlimited company.

(2) Save in so far as the articles of a company make other provision in that behalf (not being a provision avoided by the foregoing subsection) a meeting of the company (other than an adjourned meeting) may be called—

- (a) in the case of the annual general meeting, by twenty-one days' notice in writing; and
- (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution, by fourteen days' notice in writing in the case of a company other than an unlimited company and by seven days' notice in writing in the case of an unlimited company.

(3) A meeting of a company shall, notwithstanding that it is called by shorter notice than that specified in the last foregoing 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.

134. The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf:—

General provisions as to meetings and votes.

- (a) notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A, and for the purpose of this paragraph the expression "Table A" means that Table as for the time being in force;
- (b) two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per cent. in number of the members of the company may call a meeting;
- (c) in the case of a private company two members, and in the case of any other company three members, personally present shall be a quorum;
- (d) any member elected by the members present at a meeting may be chairman thereof;
- (e) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each ten pounds of stock held by him, and in any other case every member shall have one vote.

135.—(1) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Act, the court may, either of its own motion or on the application of any director of the company or of any member of

Power of court to order meeting.

PART IV.
—cont.

the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient; and it is hereby declared that the directions that may be given under this subsection include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.

(2) Any meeting called, held and conducted in accordance with an order under the foregoing subsection shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

Proxies.

136.—(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 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) This section shall apply to meetings of any class of members of a company as it applies to general meetings of the company.

137.—(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.

138. On a poll taken at a meeting of a company or a meeting of any class of members 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. Voting on a poll.

PART IV.
—*cont.*

Representation of corporations at meetings of companies and of creditors.

139.—(1) A corporation, whether a company within the meaning of this Act or not, may—

- (a) if it is a member of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company;
- (b) if it is a creditor (including a holder of debentures) of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorised as aforesaid shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder, creditor or holder of debentures of that other company.

Circulation of members' resolutions, &c.

140.—(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,—

- (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.

(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

PART IV.
—cont.

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.

Extraordinary
and special
resolutions.

141.—(1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given:

Provided that, 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, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) In computing the majority on a poll demanded on the question that an extraordinary resolution or a special resolution be passed, reference shall be had to the number of votes cast for and against the resolution.

(5) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Act or the articles.

PART IV.
—cont.

142. 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:

Resolutions
requiring
special
notice.

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.

143.—(1) A printed copy of every resolution or agreement to which this section applies shall, within fifteen days after the passing or making thereof, be forwarded to the registrar of companies and recorded by him:

Registration
and copies
of certain
resolutions and
agreements.

Provided that an exempt private company need not forward a printed copy of any such resolution or agreement if instead it forwards to the registrar of companies a copy in some other form approved by him.

(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request on payment of one shilling or such less sum as the company may direct.

(4) This section shall apply to—

- (a) special resolutions;
- (b) extraordinary resolutions;
- (c) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless, as the case may be, they had been passed as special resolutions or as extraordinary resolutions;

R*

PART IV.
—cont.

- (d) resolutions or agreements which have been agreed to by all the members of some class of shareholders but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;
- (e) resolutions requiring a company to be wound up voluntarily, passed under paragraph (a) of subsection (1) of section two hundred and seventy-eight of this Act.

(5) If a company fails to comply with subsection (1) of this section, the company and every officer of the company who is in default shall be liable to a default fine of two pounds.

(6) If a company fails to comply with subsection (2) or subsection (3) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(7) For the purposes of the two last foregoing subsections, a liquidator of the company shall be deemed to be an officer of the company.

Resolutions
passed at
adjourned
meetings.

144. Where a resolution is passed at an adjourned meeting of—

- (a) a company;
- (b) the holders of any class of shares in a company;
- (c) the directors of a company;

the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Minutes of
proceedings of
meetings of
company and
of directors
and managers.

145.—(1) Every company shall cause minutes of all proceedings of general meetings, all proceedings at meetings of its directors and, where there are managers, all proceedings at meetings of its managers to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers,

then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers or liquidators shall be deemed to be valid.

PART IV.
—cont.

(4) If a company fails to comply with subsection (1) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

146.—(1) The books containing the minutes of proceedings of any general meeting of a company held on or after the first day of November, nineteen hundred and twenty-nine, shall be kept at the registered office of the company, and shall 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) be open to the inspection of any member without charge.

Inspection
of minute
books.

(2) Any member shall be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any such minutes as aforesaid at a charge not exceeding sixpence for every hundred words.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding two pounds and further to a default fine of two pounds.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

Accounts and Audit.

147.—(1) Every company shall cause to be kept proper books of account with respect to—

Keeping of
books of
account.

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company;
- (c) the assets and liabilities of the company.

(2) For the purposes of the foregoing subsection, proper books of account shall not be deemed to be kept with respect to the matters aforesaid if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

PART IV.
—cont.

(3) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors:

Provided that if books of account are kept at a place outside Great Britain there shall be sent to, and kept at a place in, Great Britain and be 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 so kept as will disclose with reasonable accuracy the financial position of that business at intervals not exceeding six months and will enable to be prepared in accordance with this Act the company's balance sheet, its profit and loss account or income and expenditure account, and any document annexed to any of those documents giving information which is required by this Act and is thereby allowed to be so given.

(4) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, 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) in any proceedings against a person in respect of an offence under this section consisting of a failure to take reasonable steps to secure compliance by the company with the requirements of this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that those requirements were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

Profit and
loss account
and balance
sheet.

148.—(1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months, or, in

the case of a company carrying on business or having interests abroad, by more than twelve months:

PART IV.
—cont.

Provided that the Board of Trade,* if for any special reason they think fit so to do, may, in the case of any company, extend the period of eighteen months aforesaid, and in the case of any company and with respect to any year extend the periods of nine and twelve months aforesaid.

(2) The directors shall cause to be made out in every calendar year, and to be laid before the company in general meeting, a balance sheet as at the date to which the profit and loss account or the income and expenditure account, as the case may be, is made up.

(3) If any person being a director of a company fails to take all reasonable steps to comply 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) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of this section were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

149.—(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.

General provisions as to contents and form of accounts

(2) A company's balance sheet and profit and loss account shall comply with the requirements of the Eighth 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 Eighth Schedule, the requirements of the last foregoing subsection and the said Eighth Schedule shall be without prejudice either to the general requirements of subsection (1) of this section or to any other requirements of this Act.

(4) The Board of Trade may, on the application or with the consent of a company's directors, modify in relation to

PART IV.
—cont.

that company any of the requirements of 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 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) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the said provisions or the said other requirements, as the case may be, were complied with and was in a position to discharge that duty; and

(b) 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) For the purposes of this section and the following provisions 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 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.

150.—(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.

Obligation to lay group accounts before holding company.

(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

PART IV.
—cont.

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) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the requirements of this section were complied with and was in a position to discharge that duty; and
- (b) 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.

Form of
group
accounts.

151.—(1) Subject to the next following subsection, the group accounts laid before a holding company shall be consolidated 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 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 those forms.

(3) The group accounts may be wholly or partly incorporated in the company's own balance sheet and profit and loss account.

152.—(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.

PART IV.
—CONT.
Contents
of group
accounts.

(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 Eighth 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.

153.—(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.

Financial
year of
holding
company and
subsidiary.

(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.

154.—(1) For the purposes of 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,—

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.

PART IV.
• —*cont.*

(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;
- (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.

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—cont.

(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.

155.—(1) Every balance sheet of a company shall be signed on behalf of the board by two of the directors of the company, or, if there is only one director, by that director.

Signing of
balance
sheet.

(2) In the case of a banking company registered after the fifteenth day of August, eighteen hundred and seventy-nine, the balance sheet must be signed by the secretary or manager, if any, and where there are more than three directors of the company by at least three of those directors, and where there are not more than three directors by all the directors.

(3) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

156.—(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 the company in general meeting, shall be annexed to the balance sheet, and the auditors' report shall be attached thereto.

Accounts
and auditors
report to be
annexed to
balance sheet.

(2) Any accounts so annexed shall be approved by the board of directors before the balance sheet is signed on their behalf.

(3) If any copy of a balance sheet is issued, circulated or published without having annexed thereto a copy of the profit and loss account or any group accounts required by this section to be so annexed, or without having attached thereto a copy of the auditors' report, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

157.—(1) There shall be attached to every balance sheet laid before a company in general meeting a report by the directors with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by way of dividend, and the amount, if any, which they propose to carry to reserves within the meaning of the Eighth Schedule to this Act.

Directors'
report to be
attached to
balance
sheet.

(2) The said report shall deal, so far as is material for the appreciation of the state of the company's affairs by its

PART IV.
—cont

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.

(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of subsection (1) 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) in any proceedings against a person in respect of an offence under the said subsection (1), it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of that subsection were complied with and was in a position to discharge that duty; and
- (b) a person shall not be liable to be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

Right to receive copies of balance sheets and auditors' report.

158.—(1) A copy of every balance sheet, including every document required by law to be annexed thereto, which is to be laid before a company in general meeting, together with a copy of the auditors' report, shall, not less than twenty-one days before the date of the meeting, be sent to every member of the company (whether he is or is not entitled to receive notices of general meetings of the company), every holder of debentures of the company (whether he is or is not so entitled) and all persons other than members or holders of debentures of the company, being persons so entitled:

Provided that—

- (a) in the case of a company not having a share capital this subsection shall not require the sending of a copy of the documents aforesaid to a member of the company who is not entitled to receive notices of general meetings of the company or to a holder of debentures of the company who is not so entitled;
- (b) this subsection shall not require a copy of those documents to be sent—
 - (i) to a member of the company or a holder of debentures of the company, being in either case a person who is not entitled to receive notices of general meetings of the company and of whose address the company is unaware;

(ii) to more than one of the joint holders of any shares or debentures none of whom are entitled to receive such notices; or

(iii) in the case of joint holders of any shares or debentures some of whom are and some of whom are not entitled to receive such notices, to those who are not so entitled; and

(c) if the copies of the documents aforesaid are sent less than twenty-one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the meeting.

(2) Any member of a company, whether he is or is not entitled to have sent to him copies of the company's balance sheets, and any holder of debentures of the company, whether he is or is not so entitled, shall be entitled to be furnished on demand without charge with a copy of the last balance sheet of the company, including every document required by law to be annexed thereto, together with a copy of the auditors' report on the balance sheet.

(3) If default is made in complying with subsection (1) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding twenty pounds, and if, when any person makes a demand for any document with which he is by virtue of subsection (2) of this section entitled to be furnished, default is made in complying with the demand within seven days after the making thereof, the company and every officer of the company who is in default shall be liable to a default fine, unless it is proved that that person has already made a demand for and been furnished with a copy of the document.

(4) The foregoing provisions of this section shall not have effect in relation to a balance sheet of a private company laid before it before the commencement of this Act, and the right of any person to be furnished with a copy of any such balance sheet and the liability of the company in respect of a failure to satisfy that right shall be the same as they would have been if this Act had not passed.

159.—(1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office from the conclusion of that, until the conclusion of the next, annual general meeting. Appointment and remuneration of auditors.

(2) At any annual general meeting a retiring auditor, however appointed, shall be reappointed without any resolution being passed unless—

(a) he is not qualified for reappointment; or

PART IV
—cont.

- (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:

Provided that where notice is given of an intended resolution to appoint some person or persons in place 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 this subsection.

(3) Where at an annual general meeting no auditors are appointed or reappointed, the Board of Trade may appoint a person to fill the vacancy.

(4) The company shall, within one week of the Board's power under the last 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.

(5) Subject as hereinafter provided, the first auditors of a company may be appointed by the directors at any time before the first annual general meeting, and auditors so appointed shall hold office until the conclusion of that meeting:

Provided that—

- (a) the company may at a general meeting remove any such auditors and appoint in their place any other persons who have been nominated for appointment by any member of the company and of whose nomination notice has been given to the members of the company not less than fourteen days before the date of the meeting; and
- (b) if the directors fail to exercise their powers under this subsection, the company in general meeting may appoint the first auditors, and thereupon the said powers of the directors shall cease.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act.

(7) 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.

PART IV
—cont.

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".

160.—(1) 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.

Provisions as to resolutions relating to appointment and removal of auditors.

(2) 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).

(3) Where notice is given of such an intended resolution as aforesaid and the retiring auditor makes with respect to the intended resolution 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 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.

(4) The last foregoing subsection shall apply to a resolution to remove the first auditors by virtue of subsection (5) of the last foregoing section as it applies in relation to a resolution that a retiring auditor shall not be reappointed.

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—*cont.*
Disqualifica-
tions for
appointment
as auditor.

161.—(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 sixth day of August, nineteen hundred and forty-seven, 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.

(2) None of the following persons shall be qualified for appointment as auditor of a company—

- (a) an officer or servant of the company;
- (b) a person who is a partner of or in the employment of an officer or servant of the company;
- (c) a body corporate:

Provided that paragraph (b) of 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.

References in this subsection to an officer or servant shall be construed as not including references to an auditor.

(3) A person shall also not be qualified for appointment as auditor of a company if he is, by virtue of the last foregoing subsection, 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.

(5) Any body corporate which acts as auditor of a company shall be liable to a fine not exceeding one hundred pounds.

162.—(1) The auditors shall make a report to the members on the accounts examined by them, and on every balance sheet, every profit and loss account and all group accounts laid before the company in general meeting during their tenure of office, and the report shall contain statements as to the matters mentioned in the Ninth Schedule to this Act.

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—cont.
Auditors' report and right of access to books and to attend and be heard at general meetings.

(2) The auditors' report shall be read before the company in general meeting and shall be open to inspection by any member.

(3) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the officers of the company such information and explanation as he thinks necessary for the performance of the duties of the auditors.

(4) The auditors of a company shall be entitled to attend any general meeting of the company 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.

163. References in 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:

Construction of references to documents annexed to accounts.

Provided that any information which is required by 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 in the accounts and, if any such information is so given, the report shall be annexed to the accounts 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.

Inspection.

164.—(1) The Board of Trade may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Board direct—

Investigation of company's affairs on application of members.

- (a) in the case of a company having a share capital, on the application either of not less than two hundred members of or members holding not less than one-tenth of the shares issued;

PART IV.
—cont.

(b) in the case of a company not having a share capital, on the application of not less than one fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Board of Trade may require for the purpose of showing that the applicants have good reason for requiring the investigation, and the Board may, before appointing an inspector, require the applicants to give security, to an amount not exceeding one hundred pounds, for payment of the costs of the investigation.

Investigation
of company's
affairs in
other cases.

165. Without prejudice to their powers under the last foregoing section, 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.

Power of
inspectors to
carry investi-
gation into
affairs of
related
companies.

166. If an inspector appointed under either of the two last foregoing sections to investigate the affairs of a company thinks it necessary for the purposes of his investigation 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.

167.—(1) It shall be the duty of all officers and agents of the company and of all officers and agents of any other body corporate whose affairs are investigated by virtue of the last foregoing section to produce to the inspectors all books and documents of or relating to the company or, as the case may be, the other body corporate 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.

PART IV.
—*cont.*
Production of
documents,
and evidence,
on investiga-
tion.

(2) An inspector may examine on oath the officers and agents of the company or other body corporate in relation to its business, and may administer an oath accordingly.

(3) If any officer or agent of the company or other body corporate refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company or other body corporate, as the case may be, the inspectors may certify the refusal under their hand to the court, and the court may thereupon inquire into the case, and after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court.

(4) If an inspector 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;

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

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—cont

so allowed shall be paid as part of the expenses of the investigation.

(5) In this section, 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 this section the expression "agents", in relation to a company or other body corporate shall include the bankers and solicitors of the company or other body corporate and any persons employed by the company or other body corporate as auditors, whether those persons are or are not officers of the company or other body corporate.

Inspectors'
report.

168.—(1) The inspectors may, and, if so directed by the Board of Trade, shall, make interim reports to the Board, and on the conclusion of the investigation shall make a final report to the Board.

Any such report shall be written or printed, as the Board direct.

(2) The Board of Trade shall—

- (a) forward a copy of any report made by the inspectors to the registered office of the company;
- (b) if the Board 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 section one hundred and sixty-six of this Act 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;
- (c) where the inspectors are appointed under section one hundred and sixty-four of this Act, furnish, at the request of the applicants for the investigation, a copy to them; and
- (d) where the inspectors are appointed under section one hundred and sixty-five of this Act in pursuance of an order of the court, furnish a copy to the court; and may also cause the report to be printed and published.

Proceedings
on inspectors'
report.

169.—(1) If from any report made under the last foregoing section it appears to the Board of Trade that any person has, in relation to the company or to any other body corporate whose affairs have been investigated by virtue of section one hundred and sixty-six of this Act, been guilty of any offence for which he is criminally liable, the Board shall proceed as follows:—

- (a) in the case of an offence in England, if it appears to the Board that the case is one in which the prosecution ought to be undertaken by the Director of Public Prosecutions, the Board shall refer the matter to him;

(b) in the case of an offence in Scotland, the Board shall refer the matter to the Lord Advocate.

PART IV.
—cont.

(2) If, where any matter is referred to the Director of Public Prosecutions under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall institute proceedings accordingly, and it shall be the duty of all officers and agents of the company or other body corporate as aforesaid, as the case may be (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which they are reasonably able to give.

Subsection (5) of section one hundred and sixty-seven of this Act shall apply for the purposes of this subsection as it applies for the purposes of that section.

(3) If, in the case of any body corporate liable to be wound up under this Act, it appears to the Board of Trade, from any such report as aforesaid 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 section one hundred and sixty-five of this Act, 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 two hundred and ten of this Act or both.

(4) If from any such report as aforesaid 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.

(5) 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.

170.—(1) The expenses of and incidental to an investigation by an inspector appointed by the Board of Trade under the foregoing provisions of this Act 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:—

Expenses of investigation of company's affairs.

(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

PART IV.
—cont.

Lord Advocate, or who is ordered to pay damages or restore any property in proceedings brought by virtue of subsection (4) 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 sixty-four of this 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 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 (4) of the last foregoing section (including expenses incurred by virtue of subsection (5) 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.

PART IV
—cont.

(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 this 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 this Act in relation to the winding up of companies in England. 16 & 17 Geo. 5. c. 9.

171. A copy of any report of any inspectors appointed under the foregoing provisions of this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report. Inspectors' report to be evidence.

172.—(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.

(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 sixty-four of this 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

PART IV
—cont.

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 sections one hundred and sixty-six to one hundred and sixty-eight of this Act, 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 sections 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.

(6) The expenses of any investigation under this section shall be defrayed by the Board of Trade out of moneys provided by Parliament.

Power to require information as to persons interested in shares or debentures.

173.—(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—

- (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;

PART IV.
—cont.

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.

174.—(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.

(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.

PART IV.
—cont.

(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.

Saving for
solicitors and
bankers.

175. Nothing in the foregoing provisions of this Part of this Act shall require disclosure to the Board of Trade or to an inspector appointed by them—

- (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.

PART IV
—cont.

Directors and other Officers.

176. Every company registered on or after the first day of November, nineteen hundred and twenty-nine (other than a private company) shall have at least two directors, and every company registered before that date (other than a private company), and every private company, shall have a director. Directors.

177.—(1) Every company shall have a secretary and a sole director shall not also be secretary. Secretary.

(2) 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.

178. No company shall—

- (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.

Prohibition of certain persons being sole director or secretary.

179. 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. Avoidance of acts done by person in dual capacity as director and secretary.

180. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. Validity of acts of directors.

181.—(1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in a prospectus issued by or on behalf of the company, or as proposed director of an intended company in a prospectus issued in relation to that intended company, or in a statement in lieu of prospectus delivered to the registrar by or on behalf of a company, unless, before the registration of the articles

Restrictions on appointment or advertisement of director.

PART IV.
—cont

or the publication of the prospectus or the delivery of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorised in writing—

- (a) signed and delivered to the registrar of companies for registration a consent in writing to act as such director; and
- (b) either—
 - (i) signed the memorandum for a number of shares not less than his qualification, if any; or
 - (ii) taken from the company and paid or agreed to pay for his qualification shares, if any; or
 - (iii) signed and delivered to the registrar for registration an undertaking in writing to take from the company and pay for his qualification shares, if any; or
 - (iv) made and delivered to the registrar for registration a statutory declaration to the effect that a number of shares, not less than his qualification, if any, are registered in his name.

(2) Where a person has signed and delivered as aforesaid an undertaking to take and pay for his qualification shares, he shall, as regards those shares, be in the same position as if he had signed the memorandum for that number of shares.

(3) References in this section 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 therein to qualification shares shall be construed accordingly.

(4) On the application for registration of the memorandum and articles of a company, the applicant shall deliver to the registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding fifty pounds.

(5) This section shall not apply to—

- (a) a company not having a share capital; or
- (b) a private company; or
- (c) a company which was a private company before becoming a public company; or
- (d) a prospectus issued by or on behalf of a company after the expiration of one year from the date on which the company was entitled to commence business.

182.—(1) Without prejudice to the restrictions imposed by the last foregoing section, it shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

PART IV.
—cont.
Share qualifications
of directors.

(2) For the purpose of any provision in the articles requiring a director or manager to hold a specified share qualification, the bearer of a share warrant shall not be deemed to be the holder of the shares specified in the warrant.

(3) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time or the day on which he ceased to be qualified, as the case may be, and the last day on which it is proved that he acted as a director.

183.—(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:

Provided that—

(a) this subsection shall not be taken as excluding the operation of section one hundred and eighty of this Act; 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.

PART IV.
—cont.

(4) Nothing in this section shall apply to a resolution altering the company's articles.

Removal of
directors.

184.—(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 :

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.

185.—(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 commencement of this Act so as to terminate his then appointment before the conclusion of the third annual general meeting commencing after the commencement of this Act, 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

PART IV.
—*cont.*

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 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 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.

Duty of directors to disclose age to company.

186.—(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:

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.

187.—(1) If any person being an undischarged bankrupt acts as director of, or directly or indirectly takes part in or is concerned in the management of, any company except with the leave of the court by which he was adjudged bankrupt, 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 six months or to a fine not exceeding five hundred pounds or to both such imprisonment and fine:

Provisions as to undischarged bankrupts acting as directors.

Provided that a person shall not be guilty of an offence under this section by reason that he, being an undischarged bankrupt, has acted as director of, or taken part or been concerned in the management of, a company, if he was on the third day of August, nineteen hundred and twenty-eight, acting as director of, or taking part or being concerned in the management of, that company and has continuously so acted, taken part or been concerned since that date and the bankruptcy was prior to that date.

(2) In England the leave of the court for the purposes of this section shall not be given unless notice of intention to apply therefor has been served on the official receiver, and it shall be the duty of the official receiver, if he is of opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.

PART IV.
—cont.

(3) In this section the expression "company" includes an unregistered company and a company incorporated outside Great Britain which has an established place of business within Great Britain, and the expression "official receiver" means the official receiver in bankruptcy.

(4) Subsection (1) of this section in its application to Scotland shall have effect as if the words "sequestration of his estates was awarded" were substituted for the words "he was adjudged bankrupt".

Power to
restrain
fraudulent
persons from
managing
companies.

188.—(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—
 - (i) has been guilty of any offence for which he is liable (whether he has been convicted or not) under section three hundred and thirty-two of this Act; 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 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.

189.—(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 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. Prohibition of tax-free payments to directors.

(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 the commencement of this Act or in respect of a period before the commencement of this Act.

190.—(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 Prohibition of loans to directors.

PART IV.
—*cont.*

security in connection with a loan made to such a person as aforesaid by any other person :

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; 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.

(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.

Approval of company requisite for payment by it to director for loss of office, &c.

191. 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 members of the company and the proposal being approved by the company.

192.—(1) It is hereby declared that it is not lawful in connection with the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, unless particulars with respect to the proposed payment (including the amount thereof) have been disclosed to the members of the company and the proposal approved by the company.

(2) Where a payment which is hereby declared to be illegal is made to a director of the company, the amount received shall be deemed to have been received by him in trust for the company.

193.—(1) Where, in connection with the transfer to any persons of all or any of the shares in a company, being a transfer resulting from—

- (a) an offer made to the general body of shareholders;
- (b) an offer made by or on behalf of some other body corporate with a view to the company becoming its subsidiary or a subsidiary of its holding company;
- (c) an offer made 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; or
- (d) any other offer which is conditional on acceptance to a given extent;

a payment is to be made to a director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment (including the amount thereof) shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(2) If—

- (a) any such director fails to take reasonable steps as aforesaid; or
- (b) any person who has been properly required by any such director to include the said particulars in or send them with any such notice as aforesaid fails so to do;

he shall be liable to a fine not exceeding twenty-five pounds.

(3) If—

- (a) the requirements of subsection (1) of this section are not complied with in relation to any such payment as is therein mentioned; or

PART IV.

—cont.

Approval of company requisite for any payment, in connection with transfer of its property, to director for loss of office, &c.

Duty of director to disclose payment for loss of office, &c., made in connection with transfer of shares in company.

PART IV.
—cont.

- (b) the making of the proposed payment is not, before the transfer of any shares in pursuance of the offer, approved by a meeting summoned for the purpose of the holders of the shares to which the offer relates and of other holders of shares of the same class as any of the said shares;

any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made, and the expenses incurred by him in distributing that sum amongst those persons shall be borne by him and not retained out of that sum.

(4) Where the shareholders referred to in paragraph (b) of the last foregoing subsection 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 that paragraph, 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.

(5) If at a meeting summoned for the purpose of approving any payment as required by paragraph (b) of subsection (3) of this section 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.

Provisions
supplementary
to three
foregoing
sections.

194.—(1) Where in proceedings for the recovery of any payment as having, by virtue of subsections (1) and (2) of the last but one foregoing section or subsections (1) and (3) of the last foregoing section, 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.

(2) If in connection with any such transfer as is mentioned in either of the two last foregoing sections—

(a) the price to be paid to a director of the company whose office is to be abolished or who is to retire from

office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares; or

PART IV
—cont.

(b) any valuable consideration is given to any such director;

the excess or the money value of the consideration, as the case may be, shall, for the purposes of that section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connection with his retirement from office.

(3) It is hereby declared that references in the three last foregoing sections 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.

(4) Nothing in the two last foregoing sections shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are therein mentioned or with respect to any other like payments made or to be made to the directors of a company.

195.—(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 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):

Register of
directors'
shareholdings,
&c.

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 commencement of this Act 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.

PART IV.
—cont.

(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.

196.—(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, &c

- (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.

(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.

PART IV.
—cont.

(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 ninety-three of this 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

(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.

PART IV.
—cont.

(g) 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.

Particulars
in accounts
of loans to
officers, &c.

197.—(1) The accounts which, in pursuance of this Act, are to be laid before every company in general meeting shall, subject to the provisions of this section, contain particulars showing—

- (a) the amount of any loans made during the company's financial year to—
 - (i) any officer of the company; or
 - (ii) any person who, after the making of the loan, became during that year an officer of the company;
 by the company or a subsidiary thereof or by any other person under a guarantee from or on a security provided by the company or a subsidiary thereof (including any such loans which were repaid during that year); and
- (b) the amount of any loans made in manner aforesaid to any such officer or person as aforesaid at any time before the company's financial year and outstanding at the expiration thereof.

(2) The foregoing subsection shall not require the inclusion in accounts of particulars of—

- (a) a loan made in the ordinary course of its business by the company or a subsidiary thereof, where the ordinary business of the company or, as the case may be, the subsidiary, includes the lending of money; or
- (b) a loan made by the company or a subsidiary thereof to an employee of the company or subsidiary, as the case may be, if the loan does not exceed two thousand pounds and is certified by the directors of the company or subsidiary, as the case may be, to

have been made in accordance with any practice adopted or about to be adopted by the company or subsidiary with respect to loans to its employees; not being, in either case, a loan made by the company under a guarantee from or on a security provided by a subsidiary thereof or a loan made by a subsidiary of the company under a guarantee from or on a security provided by the company or any other subsidiary thereof.

(3) If in the case of any such accounts as aforesaid 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 on the balance sheet of the company, so far as they are reasonably able to do so, a statement giving the required particulars.

(4) 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).

198.—(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 sections one hundred and ninety-five and one hundred and ninety-six of this Act and of the last foregoing section except so far as it relates to loans made, by the company or by any other person under a guarantee from or on a security provided by the company, to an officer thereof.

General duty to make disclosure for purposes of three foregoing sections.

(2) Any such notice given for the purposes of the said section one hundred and ninety-five 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 directors after it is given.

(3) Subsection (1) of this section shall apply—

- (a) for the purposes of the last foregoing section, in relation to officers other than directors; and
- (b) for the purposes of the said section one hundred and ninety-six and the last foregoing section, in relation to persons who are or have at any time during the preceding five years been officers;

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.

199.—(1) Subject to the provisions of this section, it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.

Disclosure by directors of interests in contracts

PART IV
—*cont.*

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purpose of this section, a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract so made:

Provided that no such notice shall be of effect unless either it is given at a meeting of the directors or the director takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

(4) Any director who fails to comply with the provisions of this section shall be liable to a fine not exceeding one hundred pounds.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

Register of
directors and
secretaries

200.—(1) Every company shall keep at its registered office a register of its directors and secretaries.

(2) The said register shall contain the following particulars with respect to each director, that is to say,—

- (a) in the case of an individual, his present Christian name and surname, any former Christian name or surname, his usual residential address, his nationality, his business occupation, if any, particulars of any other directorships held by him and, in the case of a company subject to section one hundred and eighty-five of this Act, the date of his birth; and
- (b) in the case of a corporation, its corporate name and registered or principal office:

Provided that it shall not be necessary for the register to contain particulars of directorships held by a director 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, and for the purposes of this proviso—

- (i) the expression “ company ” shall include any body corporate incorporated in Great Britain; and
- (ii) 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.

(3) The said register shall contain the following particulars with respect to the secretary or, where there are joint secretaries, with respect to each of them, 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:

Provided 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.

(4) The company shall, within the periods respectively mentioned in the next following subsection, send to the registrar of companies a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors or in its secretary or in any of the particulars contained in the register, specifying the date of the change.

(5) The periods referred to in the last foregoing subsection are the following, namely,—

- (a) the period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company; and
- (b) the period within which the said notification of a change is to be sent shall be fourteen days from the happening thereof:

Provided that, in the case of a return containing particulars with respect to any person who is the company’s secretary at the commencement of this Act, the period shall be fourteen days from the commencement of this Act.

(6) The register to be kept under this section shall 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) be open to the inspection of any member of the company without charge and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

PART IV
—cont.

(7) If any inspection required under this section is refused or if default is made in complying with subsection (1), (2), (3) or (4) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(8) In the case of any such refusal, the court may by order compel an immediate inspection of the register.

(9) For the purposes of this section—

(a) a person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director and officer of the company;

(b) the expression "Christian name" includes a fore-name;

(c) in the case of a peer or person usually known by a title different from his surname, the expression "surname" means that title;

(d) references to a former Christian name or surname do not include—

(i) in the case of a peer or a person usually known by a British title different from his surname, the name by which he was known previous to the adoption of or succession to the title; or

(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

(iii) in the case of a married woman, the name or surname by which she was known previous to the marriage.

Particulars
with respect
to directors
in trade
catalogues,
circulars, &c.

201.—(1) Every company to which this section applies shall, in all trade catalogues, trade circulars, showcards and business letters on or in which the company's name appears and which are issued or sent by the company to any person in any part of His Majesty's dominions, state in legible characters with respect to every director being a corporation, the corporate name, and with respect to every director being an individual, the following particulars—

(a) his present Christian name, or the initials thereof, and present surname;

(b) any former Christian names and surnames;

(c) his nationality, if not British:

Provided that, if special circumstances exist which render it in the opinion of the Board of Trade expedient that such an exemption should be granted, the Board may by order grant,

subject to such conditions as may be specified in the order, exemption from the obligations imposed by this subsection.

PART IV.
—cont.

(2) This section shall apply to—

- (a) every company registered under this Act or under the Companies Act, 1929, or the Acts repealed thereby unless it was registered before the twenty-third day of November, nineteen hundred and sixteen; and
- (b) every company incorporated outside Great Britain which has an established place of business within Great Britain, unless it had established such a place of business before the said date; and
- (c) every company licensed under the Moneylenders Act, 17 & 18 Geo. 5. 1927, whenever it was registered or whenever it established a place of business. c. 21.

(3) If a company makes default in complying with this section every officer of the company who is in default shall be liable on summary conviction for each offence to a fine not exceeding five pounds, 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:

Provided that in England no proceedings shall be instituted under this section except by, or with the consent of, the Board of Trade.

(4) For the purposes of this section—

- (a) the expression “director” includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act and the expression “officer” shall be construed accordingly;
- (b) the expression “initials” includes a recognised abbreviation of a Christian name; and
- (c) the expression “showcards” means cards containing or exhibiting articles dealt with, or samples or representations thereof;

and paragraphs (b), (c) and (d) of subsection (9) of the last foregoing section shall apply as they apply for the purposes of that section.

202.—(1) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors and any managers of the company and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and before

PART IV.
—cont.

the person accepts the office or acts therein, notice in writing that his liability will be unlimited shall be given to him by the following or one of the following persons, namely, the promoters of the company, the directors of the company, any managers of the company and the secretary of the company.

(3) If any director, manager or proposer makes default in adding such a statement, or if any promoter, director, manager or secretary makes default in giving such a notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

Special resolution of limited company making liability of directors unlimited.

203.—(1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or managers, or of any managing director.

(2) Upon the passing of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

Provisions as to assignment of office by directors.

204. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.

Provisions as to liability of officers and auditors.

205. Subject as hereinafter provided, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any officer of the company or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void:

Provided that—

- (a) nothing in this section shall operate 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; and

(b) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal in which judgment is given in his favour or in which he is acquitted or in connection with any application under section four hundred and forty-eight of this Act in which relief is granted to him by the court.

PART IV.
—cont

Arrangements and Reconstructions.

206.—(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them, the court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs.

Power to compromise with creditors and members.

(2) If a majority in number representing three fourths in value of the creditors or class of creditors or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under subsection (2) of this section shall have effect until an office copy of the order has been delivered to the registrar of companies for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes default in complying with subsection (3) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(5) An order under subsection (1) of this section pronounced in Scotland by the judge acting as vacation judge in pursuance of section four of the Administration of Justice (Scotland) Act, 1933, shall not be subject to review, reduction, suspension or stay of execution.

23 & 24 Geo. 5.
c. 41.

PART IV.
—cont.

(6) In this and the next following section the expression "company" means any company liable to be wound up under this Act, and the expression "arrangement" includes a re-organisation of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods.

Information
as to com-
promises with
creditors and
members.

207.—(1) Where a meeting of creditors or any class of creditors or of members or any class of members is summoned under the last foregoing section there shall—

- (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:

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) It shall be the duty of any director of the company and of any trustee for debenture holders of the company to give notice to the company of such matters relating to himself as may be necessary for the purposes of this section, and any person who makes default in complying with this subsection shall be liable to a fine not exceeding fifty pounds.

208.—(1) Where an application is made to the court under section two hundred and six of this Act for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as “ a transferor company ”) is to be transferred to another company (in this section referred to as “ the transferee company ”), the court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters:—

Provisions for facilitating reconstruction and amalgamation of companies

- (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;
- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;
- (c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;
- (d) the dissolution, without winding up, of any transferor company;
- (e) the provision to be made for any persons, who within such time and in such manner as the court directs, dissent from the compromise or arrangement;
- (f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of

PART IV.
—cont.

any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause an office copy thereof to be delivered to the registrar of companies for registration within seven days after the making of the order, 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 default fine.

(4) In this section the expression "property" includes property, rights and powers of every description, and the expression "liabilities" includes duties.

(5) Notwithstanding the provisions of subsection (6) of section two hundred and six of this Act, the expression "company" in this section does not include any company other than a company within the meaning of this Act.

Power to
acquire
shares of
shareholders
dissenting
from scheme
or contract
approved by
majority.

209.—(1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as "the transferor company") to another company, whether a company within the meaning of this Act or not (in this section referred to as "the transferee company"), has, within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine tenths in value of the shares whose transfer is involved (other than shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary), the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and when such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company:

Provided that where shares in the transferor company of the same class or classes as the shares whose transfer is involved are already held as aforesaid to a value greater than one tenth of the aggregate of their value and that of the shares (other than those already held as aforesaid) whose transfer is involved, the foregoing provisions of this subsection shall not apply unless—

(a) the transferee company offers the same terms to all holders of the shares (other than those already held

as aforesaid) whose transfer is involved, 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 (other than those already held as aforesaid) whose transfer is involved, are not less than three fourths in number of the holders of those shares.

(2) Where, in pursuance of any such scheme or contract as aforesaid, 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;

and where a shareholder gives notice under paragraph (b) of this 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.

(3) Where a notice has been given by the transferee company under subsection (1) of this section and the court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company 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 transferee company, and pay or transfer to the transferor

PART IV.
—cont.

company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares:

Provided that an instrument of transfer shall not be required for any share for which a share warrant is for the time being outstanding.

(4) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(5) In this section the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

(6) In relation to an offer made by the transferee company to shareholders of the transferor company before the commencement of this Act, this section shall have effect—

- (a) with the substitution, in subsection (1), for the words "the shares whose transfer is involved (other than shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary)", of the words "the shares affected" and with the omission of the proviso to that subsection;
- (b) with the omission of subsection (2); and
- (c) with the omission, in subsection (3), of 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 transferee company" and of the proviso to that subsection.

Minorities.

210.—(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) or, in a case falling within subsection (3) of section one hundred and sixty-nine of this Act, the Board of Trade, may make an application to the court by petition for an order under this section.

(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

Alternative
remedy to
winding up
in cases of
oppression.

facts would 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 any other provision of this 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 provisions of this 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.

(5) In relation to a petition under this section, section three hundred and sixty-five of this Act 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, be deemed to be proceedings under this Act in relation to the winding up of companies.

PART V.

WINDING UP.

(i) PRELIMINARY.

Modes of Winding Up.

211.—(1) The winding up of a company may be either—

<p>(a) by the court; or (b) voluntary; or (c) subject to the supervision of the court.</p>	<p>Modes of winding up.</p>
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PART V.
—cont.

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

Contributories.

Liability as
contributories
of present
and past
members.

212.—(1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities, and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of subsection (2) of this section and the following qualifications:—

- (a) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;
- (b) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;
- (c) a past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;
- (d) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (e) in the case of a company limited by guarantee, no contribution shall, subject to the provisions of subsection (3) of this section, be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;
- (f) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;
- (g) a sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a limited company, any director or manager, whether past or present, whose liability is, under the provisions of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company:

PART V.
—cont.

Provided that—

- (a) a past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;
- (b) a past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;
- (c) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company and the costs, charges and expenses of the winding up.

(3) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

213. The term “contributory” means every person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Definition of
“contributory”.

214. The liability of a contributory shall create a debt (in England of the nature of a specialty) accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

Nature of
liability of
contributory.

215.—(1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives, and the heirs and legatees of heritage of his heritable estate in Scotland, shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

Contributories
in case of
death of
member.

PART V.
—cont.

(2) Where the personal representatives are placed on the list of contributories, the heirs or legatees of heritage need not be added, but they may be added as and when the court thinks fit.

(3) If in England the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory and for compelling payment thereof of the money due.

Contributories
in case of
bankruptcy
of member.

216. If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories,—

- (a) his trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company; and
- (b) there may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

Provision as
to married
women.
45 & 46 Vict.
c. 75.
44 & 45 Vict.
c. 21.

217.—(1) The husband of a female contributory married before the date of the commencement of the Married Women's Property Act, 1882, or the Married Women's Property (Scotland) Act, 1881, as the case may be, shall, during the continuance of the marriage, be liable, as respects any liability attaching to any shares acquired by her before that date, to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be a contributory accordingly.

(2) Subject as aforesaid, nothing in this Act shall affect the provisions of the Married Women's Property Act, 1882, or the Married Women's Property (Scotland) Act, 1881.

(ii) WINDING UP BY THE COURT.

Jurisdiction.

Jurisdiction
to wind up
companies
registered
in England

218.—(1) The High Court shall have jurisdiction to wind up any company registered in England.

(2) In the case of a company whose registered office is situate within the jurisdiction of the Chancery Court of the County Palatine of Lancaster or the Chancery Court of the County Palatine of Durham, the palatine court shall have concurrent jurisdiction with the High Court to wind up the company.

(3) Where the amount of the share capital of a company paid up or credited as paid up does not exceed ten thousand

pounds, the county court of the district in which the registered office of the company is situate shall, subject to the provisions of this section, have concurrent jurisdiction with the High Court to wind up the company.

(4) Where a company is formed for working mines within the stannaries and is not shown to be working mines beyond the limits of the stannaries or to be engaged in any other undertaking beyond those limits, or to have entered into a contract for such working or undertaking, the court exercising the stannaries jurisdiction shall, whatever may be the amount of the capital of the company and wherever the registered office of the company is situate, have concurrent jurisdiction with the High Court to wind up the company.

(5) The Lord Chancellor may by order made by statutory instrument exclude a county court from having jurisdiction under this Act, and for the purposes of that jurisdiction may attach its district, or any part thereof, to any other county court, and may by statutory instrument revoke or vary any such order.

In exercising his powers under this section, the Lord Chancellor shall provide that a county court shall not have jurisdiction under this Act unless it has for the time being jurisdiction in bankruptcy.

An order made under this provision shall not affect any jurisdiction or powers vested in any county court under or by virtue of the Stannaries Court (Abolition) Act, 1896.

59 & 60 Vict.
c. 45.

(6) Every court in England having jurisdiction under this Act to wind up a company shall for the purposes of that jurisdiction have all the powers of the High Court, and every prescribed officer of the court shall perform any duties which an officer of the High Court may discharge by order of the judge thereof or otherwise in relation to the winding up of a company.

(7) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong court.

(8) For the purposes of this section, the expression "registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

219.—(1) The winding up of a company by the court in England or any proceedings in the winding up may at any time and at any stage, and either with or without application from any of the parties thereto, be transferred from one court to another court, or may be retained in the court in which the proceedings were commenced although it may not be the court in which they ought to have been commenced.

Transfer of
proceedings
from one court
to another and
statement of
case by county
court.

PART V.
—*cont.*

(2) The powers of transfer given by the foregoing provisions of this section may, subject to and in accordance with general rules, be exercised by the Lord Chancellor or by any judge of the High Court having jurisdiction under this Act, or, as regards any case within the jurisdiction of any other court, by the judge of that court.

(3) If any question arises in any winding up proceeding in a county court which all the parties to the proceeding, or which one of them and the judge of the court, desire to have determined in the first instance in the High Court, the judge shall state the facts in the form of a special case for the opinion of the High Court, and thereupon the special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

Jurisdiction
to wind
up companies
registered in
Scotland.

220.—(1) The Court of Session shall have jurisdiction to wind up any company registered in Scotland.

(2) When the Court of Session is in vacation, the jurisdiction conferred on that court by this section may, subject to the provisions of this Act, be exercised by the judge acting as vacation judge in pursuance of section four of the Administration of Justice (Scotland) Act, 1933.

(3) Where the amount of the share capital of a company paid up or credited as paid up does not exceed ten thousand pounds, the sheriff court of the sheriffdom in which the registered office of the company is situate shall have concurrent jurisdiction with the Court of Session to wind up the company:

Provided that—

- (a) it shall be lawful for the Court of Session, if it appears to the Court having regard to the amount of the assets of the company expedient to do so, to remit to any sheriff court any petition presented to the Court of Session for winding up any such company or to require any such petition presented to a sheriff court to be remitted to the Court of Session; and
- (b) it shall be lawful for the Court of Session to require that any such petition as aforesaid presented to one sheriff court be remitted to another sheriff court; and
- (c) in a winding up in the sheriff court it shall be lawful for the sheriff court to submit a stated case for the opinion of the Court of Session on any question of law arising in that winding up.

(4) For the purposes of this section, the expression "registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

PART V
—cont.

221. The Court of Session may, by Act of Sederunt, make provision for the taking of proceedings in a winding up before one of the Lords Ordinary, and where provision is so made, the Lord Ordinary shall, for the purposes of a winding up, have all the powers and jurisdiction of the court:

Power in
Scotland to
remit winding
up to Lord
Ordinary

Provided that the Lord Ordinary may report to the Inner House any matter which may arise in the course of a winding up.

Cases in which Company may be wound up by Court.

222. A company may be wound up by the court if—

- (a) the company has by special resolution resolved that the company be wound up by the court;
- (b) default is made in delivering the statutory report to the registrar or in holding the statutory meeting;
- (c) the company does not commence its business within a year from its incorporation or suspends its business for a whole year;
- (d) 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;
- (e) the company is unable to pay its debts;
- (f) the court is of opinion that it is just and equitable that the company should be wound up.

Circumstances
in which
company may
be wound
up by court

223. A company shall be deemed to be unable to pay its debts—

- (a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due and the company has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (b) if, in England or Northern Ireland, execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

Definition of
inability to
pay debts.

PART V.
—cont.

- (c) if, in Scotland, the induciæ of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest have expired without payment being made; or
- (d) if it is proved to the satisfaction of the court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the company.

Petition for Winding Up and Effects thereof.

Provisions as
to applications
for winding
up.

224.—(1) An application to the court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately:

Provided that—

- (a) a contributory shall not be entitled to present a winding-up petition unless—
 - (i) either 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; or
 - (ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder; and
 - (b) a winding-up petition shall not, if the ground of the petition is default in delivering the statutory report to the registrar or in holding the statutory meeting, be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held; and
 - (c) the court shall not give a hearing to a winding-up petition presented by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a prima facie case for winding up has been established to the satisfaction of the court; and
 - (d) in a case falling within subsection (3) of section one hundred and sixty-nine of this Act, a winding-up petition may be presented by the Board of Trade.
- (2) Where a company is being wound up voluntarily or subject to supervision in England, a winding-up petition may

be presented by the official receiver attached to the court as well as by any other person authorised in that behalf under the other provisions of this section, but the court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding up or winding up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

(3) Where, under the provisions of this Part of this Act, any person as being the husband of a female contributory is himself a contributory and a share has, during the whole or any part of the six months mentioned in paragraph (ii) of proviso (a) to subsection (1) of this section, been held by or registered in the name of the wife or by or in the name of a trustee for the wife or for the husband, the share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the husband.

225.—(1) On hearing a winding-up petition the court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets or that the company has no assets. Powers of court on hearing petition.

(2) Where the petition is 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, if it 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;

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.

(3) Where the petition is presented on the ground of default in delivering the statutory report to the registrar or in holding the statutory meeting, the court may—

- (a) instead of making a winding-up order, direct that the statutory report shall be delivered or that a meeting shall be held; and
- (b) order the costs to be paid by any persons who, in the opinion of the court, are responsible for the default.

PART V.

—*cont.*

Power to stay or restrain proceedings against company.

226. At any time after the presentation of a winding-up petition, and before a winding-up order has been made, the company, or any creditor or contributory, may—

- (a) where any action or proceeding against the company is pending in the High Court or Court of Appeal in England or Northern Ireland, apply to the court in which the action or proceeding is pending for a stay of proceedings therein; and
- (b) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding;

and the court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

Avoidance of dispositions of property, &c. after commencement of winding up.

227. In a winding up by the court, any disposition of the property of the company, including things in action, and any transfer of shares, or alteration in the status of the members of the company, made after the commencement of the winding up, shall, unless the court otherwise orders, be void.

Avoidance of attachments, &c. in case of English company and in case of effects in England of Scottish company.

228.—(1) Where any company registered in England is being wound up by the court, any attachment, sequestration, distress or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

(2) The provisions of this section shall, so far as relates to any estate or effects of the company situate in England, apply in the case of a company registered in Scotland as it applies in the case of a company registered in England.

Commencement of Winding Up.

Commencement of winding up by the court.

229.—(1) Where, before the presentation of a petition for the winding up of a company by the court, a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a company by the court shall be deemed to commence at the time of the presentation of the petition for the winding up.

Consequences of Winding-up Order.

230. On the making of a winding-up order, 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.

PART V
—cont.

Copy of order to be forwarded to registrar.

231. When a winding-up order has been made or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court and subject to such terms as the court may impose.

Actions stayed on winding-up order.

232. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Effect of winding-up order.

Official Receiver in English Winding Up.

233.—(1) For the purposes of this Act so far as it relates to the winding up of companies by the court in England, the term "official receiver" means the official receiver, if any, attached to the court for bankruptcy purposes, or, if there is more than one such official receiver, then such one of them as the Board of Trade may appoint, or, if there is no such official receiver, then an officer appointed for the purpose by the Board.

Official receiver in bankruptcy to be official receiver for winding-up purposes.

(2) Any such officer shall, for the purpose of his duties under this Act, be styled "the official receiver".

234. If, in the case of the winding up of any company by the court in England, it appears to the court desirable, with a view to securing the more convenient and economical conduct of the winding up, that some officer other than the person who would by virtue of the last foregoing section be the official receiver should be the official receiver for the purposes of that winding up, the court may appoint that other officer to act as official receiver in that winding up, and the person so appointed shall be deemed to be the official receiver in that winding up for all the purposes of this Act.

Appointment of official receiver by court in certain cases.

235.—(1) Where the court in England has made a winding-up order or appointed a provisional liquidator, there shall, unless the court thinks fit to order otherwise and so orders, be made out and submitted to the official receiver a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts and liabilities, the names, residences and occupations

Statement of company's affairs to be submitted to official receiver.

PART V.
—cont.

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 or as the official receiver may require.

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary of the company, or by such of the persons hereinafter in this subsection mentioned as the official receiver, 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 relevant date;
- (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 official 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) The statement shall be submitted within fourteen days from the relevant date or within such extended time as the official receiver or the court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official receiver or provisional liquidator, as the case may be, out of the assets of the company such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official receiver may consider reasonable, subject to an appeal to the court.

(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) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall, on the application of the liquidator or of the official receiver, be punishable accordingly.

(8) In this section the expression "the relevant date" means, in a case where a provisional liquidator is appointed, the date of his appointment, and, in a case where no such appointment is made, the date of the winding-up order.

236.—(1) In a case where a winding-up order is made, the official receiver shall, as soon as practicable after receipt of the statement to be submitted under the last foregoing section, or, in a case where the court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the court—

Report by
official
receiver

- (a) as to the amount of capital issued, subscribed and paid up, and the estimated amount of assets and liabilities; and
- (b) if the company has failed, as to the causes of the failure; and
- (c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation or failure of the company or the conduct of the business thereof.

(2) The official receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation or by any officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.

(3) If the official receiver states in any such further report as aforesaid that in his opinion a fraud has been committed as aforesaid, the court shall have the further powers provided in section two hundred and seventy of this Act.

Liquidators.

237. For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators.

Power of
court to
appoint
liquidators.

238.—(1) Subject to the provisions of this section, the court may appoint a liquidator provisionally at any time after the presentation of a winding-up petition.

Appointment
and powers
of provisional
liquidator.

(2) Where the proceedings are in England, the appointment of a provisional liquidator may be made at any time before the making of a winding-up order, and either the official receiver or any other fit person may be appointed.

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(3) Where the proceedings are in Scotland, the appointment of a provisional liquidator may be made at any time before the first appointment of liquidators.

(4) Where a liquidator is provisionally appointed by the court, the court may limit and restrict his powers by the order appointing him.

Appointment,
style, &c., of
liquidators
in England.

239. The following provisions with respect to liquidators shall have effect on a winding-up order being made in England:—

- (a) the official receiver shall by virtue of his office become the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such;
- (b) the official receiver shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the court for appointing a liquidator in the place of the official receiver;
- (c) the court may make any appointment and order required to give effect to any such determination and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter aforesaid, the court shall decide the difference and make such order thereon as the court may think fit;
- (d) in a case where a liquidator is not appointed by the court, the official receiver shall be the liquidator of the company;
- (e) the official receiver shall by virtue of his office be the liquidator during any vacancy;
- (f) a liquidator shall be described, where a person other than the official receiver is liquidator, by the style of "the liquidator", and, where the official receiver is liquidator, by the style of "the official receiver and liquidator", of the particular company in respect of which he is appointed and not by his individual name.

Provisions
where person
other than
official
receiver is
appointed
liquidator.

240. Where, in the winding up of a company by the court in England, a person other than the official receiver is appointed liquidator, that person—

- (a) shall not be capable of acting as liquidator until he has notified his appointment to the registrar of companies and given security in the prescribed manner to the satisfaction of the Board of Trade;

- (b) shall give the official receiver such information and such access to and facilities for inspecting the books and documents of the company and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

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—cont

241. The following provisions with respect to the liquidators shall have effect in a winding up by the court in Scotland:—

Provisions as
to liquidators
in Scotland

- (a) the court may determine whether any and what security is to be given by a liquidator on his appointment;
- (b) a liquidator shall be described by the style of "the official liquidator" of the particular company in respect of which he is appointed and not by his individual name;
- (c) where an order has been made for winding up a company subject to supervision and an order is afterwards made for winding up by the court, the court may by the last-mentioned or by any subsequent order appoint any person who is then liquidator, either provisionally or permanently, and either with or without any other person, to be liquidator in the winding up by the court.

242.—(1) A liquidator appointed by the court may resign or, on cause shown, be removed by the court.

General
provisions as
to liquidators.

(2) Where a person other than the official receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the court may direct, and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the court directs.

(3) A vacancy in the office of a liquidator appointed by the court shall be filled by the court.

(4) If more than one liquidator is appointed by the court, the court shall declare whether any act by this Act required or authorised to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) Subject to the provisions of section three hundred and thirty-five of this Act, the acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

243.—(1) Where a winding-up order has been made or where a provisional liquidator has been appointed, the liquidator or the provisional liquidator, as the case may be, shall take into his custody or under his control all the property

Custody of
company's
property.

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—cont.

and things in action to which the company is or appears to be entitled.

(2) In a winding up by the court in Scotland, if and so long as there is no liquidator, all the property of the company shall be deemed to be in the custody of the court.

Vesting of
property of
company in
liquidator.

244. Where a company is being wound up by the court, the court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the company and recovering its property.

Powers of
liquidator.

245.—(1) The liquidator in a winding up by the court shall have power, with the sanction either of the court or of the committee of inspection,—

- (a) to bring or defend any action or other legal proceeding in the name and on behalf of the company;
- (b) to carry on the business of the company so far as may be necessary for the beneficial winding up thereof;
- (c) to appoint a solicitor to assist him in the performance of his duties;
- (d) to pay any classes of creditors in full;
- (e) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable;
- (f) to compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect thereof.

(2) The liquidator in a winding up by the court shall have power—

- (a) to sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company or to sell the same in parcels;
- (b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the company's seal;
- (c) to prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors;
- (d) to draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business;
- (e) to raise on the security of the assets of the company any money requisite;
- (f) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself;
- (g) to appoint an agent to do any business which the liquidator is unable to do himself;
- (h) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

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—cont.

(4) In the case of a winding up in Scotland, the court may provide by any order that the liquidator may, where there is no committee of inspection, exercise any of the powers mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section without the sanction or intervention of the court.

(5) In a winding up by the court in Scotland, the liquidator shall, subject to general rules, have the same powers as a trustee on a bankrupt estate.

Exercise and
control of
liquidator's
powers in
England.

246.—(1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the court in England shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one tenth in value of the creditors or contributories as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

Books to be
kept by
liquidator
in England.

247. Every liquidator of a company which is being wound up by the court in England shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

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—cont.
Payments of
liquidator
in England
into bank

248.—(1) Every liquidator of a company which is being wound up by the court in England shall, in such manner and at such times as the Board of Trade, with the concurrence of the Treasury, direct, pay the money received by him to the Companies Liquidation Account at the Bank of England, and the Board shall furnish him with a certificate of receipt of the money so paid:

Provided that, if the committee of inspection satisfy the Board of Trade that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Board shall, on the application of the committee of inspection, authorise the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than ten days a sum exceeding fifty pounds or such other amount as the Board of Trade in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the Board, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum, and shall be liable to disallowance of all or such part of his remuneration as the Board may think just, and to be removed from his office by the Board, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the court in England shall not pay any sums received by him as liquidator into his private banking account.

249.—(1) Every liquidator of a company which is being wound up by the court in England shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Board of Trade, or as they direct, an account of his receipts and payments as liquidator.

Audit of
liquidator's
accounts in
England.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Board shall cause the account to be audited, and for the purpose of the audit the liquidator shall furnish the Board with such vouchers and information as the Board may require, and the Board may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed and kept by the Board, and the other copy shall

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—cont.

be delivered to the court for filing, and each copy shall be open to the inspection of any person on payment of the prescribed fee.

(5) The liquidator shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory:

Provided that the Board may in any case dispense with compliance with this subsection.

Control of
Board of
Trade over
liquidators
in England.

250.—(1) The Board of Trade shall take cognizance of the conduct of liquidators of companies which are being wound up by the court in England, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules or otherwise with respect to the performance of his duties or if any complaint is made to the Board by any creditor or contributory in regard thereto, the Board shall inquire into the matter, and take such action thereon as they may think expedient.

(2) The Board may at any time require any liquidator of a company which is being wound up by the court in England to answer any inquiry in relation to any winding up in which he is engaged, and may, if the Board think fit, apply to the court to examine him or any other person on oath concerning the winding up.

(3) The Board may also direct a local investigation to be made of the books and vouchers of the liquidator.

Release of
liquidators
in England.

251.—(1) When the liquidator of a company which is being wound up by the court in England has realised all the property of the company, or so much thereof as can, in his opinion, be realised without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has resigned, or has been removed from his office, the Board of Trade shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Board, shall take into consideration the report and any objection which may be urged by any creditor or contributory or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the High Court.

(2) Where the release of a liquidator is withheld, the court may, on the application of any creditor or contributory or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Board of Trade releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

Committees of Inspection.

252.—(1) When a winding-up order has been made by the court in England, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the court for appointing a liquidator in place of the official receiver, to determine further whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed.

Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.

(2) When a winding-up order has been made by the court in Scotland, the liquidator shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator and who are to be the members of the committee if appointed:

Provided that, where the winding-up order has been made on the ground that the company is unable to pay its debts, it shall not be necessary for the liquidator to summon a meeting of the contributories.

(3) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters aforesaid the court shall decide the difference and make such order thereon as the court may think fit.

253.—(1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories or as, in case of difference, may be determined by the court:

Constitution and proceedings of committee of inspection.

Provided that, where in Scotland a winding-up order has been made on the ground that a company is unable to pay its

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debts, the committee shall consist of creditors or persons holding general powers of attorney from creditors.

(2) The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting but shall not act unless a majority of the committee are present.

(4) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt or compounds or arranges with his creditors or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) A member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors, or of contributories, if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, reappoint the same or appoint another creditor or contributory to fill the vacancy:

Provided that if the liquidator, having regard to the position in the winding up, is of the 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.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

Powers of Board of Trade in England where no committee of inspection.

254. Where in the case of a winding up in England there is no committee of inspection, the Board of Trade may, on the application of the liquidator, do any act or thing or give any direction or permission which is by this Act authorised or required to be done or given by the committee.

255. In the case of a winding up in Scotland, the committee of inspection shall, in addition to the powers and duties conferred and imposed on it by this Act, have such of the powers and duties of commissioners on a bankrupt estate as may be conferred and imposed on committees of inspection by general rules.

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—*cont.*
Additional powers of committee of inspection in Scotland.

General Powers of Court in case of Winding up by Court.

256.—(1) The court may at any time after an order for winding up, on the application either of the liquidator or the official receiver or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.

Power to stay winding up.

(2) On any application under this section the court may, before making an order, require the official receiver to furnish to the court a report with respect to any facts or matters which are in his opinion relevant to the application.

(3) A copy of every order made under this section shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall make a minute of the order in his books relating to the company.

257.—(1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities:

Settlement of list of contributories and application of assets.

Provided that, where it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

258. The court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories and any trustee, receiver, banker, agent or officer of the company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the

Delivery of property to liquidator.

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—cont.

court directs, to the liquidator any money, property or books and papers in his hands to which the company is prima facie entitled.

Payment of debts due by contributory to company and extent to which set-off allowed.

259.—(1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The court in making such an order may—

(a) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(b) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of court to make calls.

260.—(1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

Payment into Bank of moneys due to company.

261.—(1) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the amount due into the Bank of England or any branch thereof to the account of the liquidator instead of to the liquidator, and any such order may be

enforced in the same manner as if it had directed payment to the liquidator.

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(2) All moneys and securities paid or delivered into the Bank of England or any branch thereof in the event of a winding up by the court shall be subject in all respects to the orders of the court.

262.—(1) An order made by the court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

Order on contributory conclusive evidence

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings except proceedings in Scotland against the heritable estate of a deceased contributory, in which case the order shall be only prima facie evidence for the purpose of charging his heritable estate, unless his heirs or legatees of heritage were on the list of contributories at the time of the order being made.

263.—(1) Where in proceedings in England the official receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the court, and the court may on such application appoint a special manager of the said estate or business to act during such time as the court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.

Appointment in England of special manager.

(2) The special manager shall give such security and account in such manner as the Board of Trade direct.

(3) The special manager shall receive such remuneration as may be fixed by the court.

264. The court may fix a time or times within which creditors are to prove their debts or claims or to be excluded from the benefit of any distribution made before those debts are proved.

Power to exclude creditors not proving in time

265. The court shall adjust the rights of the contributories among themselves and distribute any surplus among the persons entitled thereto.

Adjustment of rights of contributories

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Inspection
of books by
creditors and
contributories.

266.—(1) The court may, at any time after making a winding-up order, make such order for inspection of the books and papers of the company by creditors and contributories as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

(2) Nothing in this section shall be taken as excluding or restricting any statutory rights of a government department or person acting under the authority of a government department.

Power to
order costs of
winding up to
be paid out
of assets.

267. The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the court thinks just.

Power to
summon
persons
suspected of
having
property of
company, &c.

268.—(1) The court may, at any time after the appointment of a provisional liquidator or the making of a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the company.

(2) The court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The court may require him to produce any books and papers in his custody or power relating to the company, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting and allowed by it), the court may cause him to be apprehended and brought before the court for examination.

Attendance
of officers
of company
at meetings
of creditors,
&c., in
Scotland.

269. In the winding up by the court of a company registered in Scotland, the court shall have power to require the attendance of any officer of the company at any meeting of creditors or of contributories or of a committee of inspection for the purpose of giving information as to the trade, dealings, affairs or property of the company.

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—cont
Power in
England to
order public
examination
of promoters
and officers.

270.—(1) Where an order has been made in England for winding up a company by the court, and the official receiver has made a further report under this Act stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company or by any officer of the company in relation to the company since its formation, the court may, after consideration of the report, direct that that person or officer shall attend before the court on a day appointed by the court for that purpose and be publicly examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as officer thereof.

(2) The official receiver shall take part in the examination, and for that purpose may, if specially authorised by the Board of Trade in that behalf, employ a solicitor with or without counsel.

(3) The liquidator, where the official receiver is not the liquidator, and any creditor or contributory may also take part in the examination either personally or by solicitor or counsel.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath and shall answer all such questions as the court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the official receiver's report, and 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 :

Provided that, if any such person applies to the court to be exculpated from any charges made or suggested against him, it shall be the duty of the official receiver to appear on the hearing of the application and call the attention of the court to any matters which appear to the official receiver to be relevant, and if the court, after hearing any evidence given or witnesses called by the official receiver, grants the application, the court may allow the applicant such costs as in its discretion it may think fit.

(7) 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, and shall be open to the inspection of any creditor or contributory at all reasonable times.

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—*cont.*

(8) The court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the court so directs, and subject to general rules, be held before any judge of county courts, or before any officer of the Supreme Court being an official referee, master or registrar in bankruptcy, or before any district registrar of the High Court named for the purpose by the Lord Chancellor, or, in the case of companies being wound up by a Palatine Court, before a registrar of that court, and the powers of the court under this section may be exercised by the person before whom the examination is held.

Power to
arrest
absconding
contributory

271. The court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the United Kingdom or otherwise to abscond or to remove or conceal any of his property for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested and his books and papers and movable personal property to be seized and him and them to be safely kept until such time as the court may order.

Powers of
court
cumulative

272. Any powers by this Act conferred on the court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company or the estate of any contributory or debtor, for the recovery of any call or other sums.

Delegation to
liquidator of
certain powers
of court in
England.

273. Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the court in England by this Act in respect of the following matters—

- (a) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
- (b) the settling of lists of contributories and the rectifying of the register of members where required, and the collecting and applying of the assets;
- (c) the paying, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;
- (d) the making of calls;

(e) the fixing of a time within which debts and claims must be proved;

to be exercised or performed by the liquidator as an officer of the court, and subject to the control of the court:

Provided that the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either the special leave of the court or the sanction of the committee of inspection.

274.—(1) When the affairs of a company have been completely wound up, the court, if the liquidator makes an application in that behalf, shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly. Dissolution of company.

(2) A copy of the order shall within fourteen days from the date thereof be forwarded by the liquidator to the registrar of companies who shall make in his books a minute of the dissolution of the company.

(3) If the liquidator 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 he is in default.

Enforcement of and Appeal from Orders.

275.—(1) Where an order, interlocutor or decree has been made in Scotland for winding up a company by the court, it shall be competent to the court, on production by the liquidators of a list certified by them of the names of the contributories liable in payment of any calls, and of the amount due by each contributory, and of the date when the said amount became due, to pronounce forthwith a decree against those contributories for payment of the sums so certified to be due, with interest from the said date till payment, at the rate of five per cent. per annum in the same way and to the same effect as if they had severally consented to registration for execution, on a charge of six days, of a legal obligation to pay those calls and interest. Order for calls on contributories in Scotland.

(2) Any such decree may be extracted immediately, and no suspension thereof shall be competent, except on caution or consignment, unless with special leave of the court.

276.—(1) Any order made by the court in England for or in the course of winding up a company shall be enforced in Scotland and Northern Ireland in the courts that would respectively have jurisdiction in respect of that company if registered in Scotland or Northern Ireland and in the same manner in all respects as if the order had been made by those courts. Enforcement throughout United Kingdom of orders made in winding up.

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—*cont.*

(2) In like manner orders, interlocutors and decrees made by the court in Scotland for or in the course of winding up a company shall be enforced in England and Northern Ireland by the courts which would respectively have jurisdiction in respect of that company if registered in that part of the United Kingdom where the order is required to be enforced, and in the same manner in all respects as if the order had been made by those courts.

(3) Where any order, interlocutor or decree made by one court is required to be enforced by another court, an office copy of the order, interlocutor or decree shall be produced to the proper officer of the court required to enforce the same, and the production of an office copy shall be sufficient evidence of the order, interlocutor or decree, and thereupon the last-mentioned court shall take the requisite steps in the matter for enforcing the order, interlocutor or decree, in the same manner as if it had been made by that court.

Appeals
from orders
in Scotland.

277.—(1) Subject to the provisions of this section and to rules of court, an appeal from any order or decision made or given in the winding up of a company by the court in Scotland under this Act shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the court in cases within its ordinary jurisdiction.

(2) In regard to orders or judgments pronounced by the judge acting as vacation judge in pursuance of section four of the Administration of Justice (Scotland) Act, 1933,—

- (a) none of the orders specified in Part I of the Tenth Schedule to this Act shall be subject to review, reduction, suspension or stay of execution; and
- (b) every other order or judgment (except as hereinafter mentioned) may be submitted to review by the Inner House by reclaiming motion enrolled within fourteen days from the date of the order or judgment:

Provided that an order being one of the orders specified in Part II of the Tenth Schedule to this Act shall, from the date of such order and notwithstanding that it has been submitted to review as aforesaid, be carried out and receive effect until the Inner House have disposed of the matter.

(3) In regard to orders or judgments pronounced in Scotland by a Lord Ordinary before whom proceedings in a winding up are being taken, any such order or judgment may be submitted to review by the Inner House by reclaiming motion enrolled within fourteen days from the date of the order or judgment, but should such order or judgment not be so submitted to review during session, the provisions of this section

in regard to orders or judgments pronounced by the judge acting as vacation judge shall apply to the order or judgment.

(4) Nothing in this section shall affect the provisions of this Act in reference to decrees in Scotland for payment of calls in the winding up of companies, whether voluntary or by, or subject to the supervision of, the court.

(iii) VOLUNTARY WINDING UP.

Resolutions for, and Commencement of, Voluntary Winding Up.

278.—(1) A company may be wound up voluntarily—

- Circumstances in which company may be wound up voluntarily.
- (a) when the period, if any, fixed for the duration of the company by the articles expires, or the event, if any, occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;
 - (b) if the company resolves by special resolution that the company be wound up voluntarily;
 - (c) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

(2) In this Act the expression “ a resolution for voluntary winding up ” means a resolution passed under any of the provisions of subsection (1) of this section.

279.—(1) When a company has passed a resolution for voluntary winding up, it shall, within fourteen days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette.

Notice of resolution to wind up voluntarily.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine, and for the purposes of this subsection the liquidator of the company shall be deemed to be an officer of the company.

280. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

Commencement of voluntary winding up

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—cont.

Effect of
voluntary
winding up
on business
and status
of company.

Consequences of Voluntary Winding Up.

281. In case of a voluntary winding up, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Avoidance of
transfers, &c.,
after com-
mencement of
voluntary
winding up

282. Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the members of the company, made after the commencement of a voluntary winding up, shall be void.

Declaration of Solvency.

Statutory
declaration of
solvency in
case of
proposal to
wind up
voluntarily

283.—(1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors, may, at a meeting of the directors make a statutory declaration to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within such period not exceeding twelve months from the commencement of the winding up as may be specified in the declaration.

(2) A declaration made as aforesaid shall have no effect for the purposes of this Act unless—

- (a) it is made within the five weeks immediately preceding the date of the passing of the resolution for winding up the company and is delivered to the registrar of companies for registration before that date; 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.

(3) Any director of a company making a declaration under this section 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.

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—cont.

(4) A winding up in the case of which a declaration has been made and delivered in accordance with this section or section two hundred and thirty of the Companies Act, 1929, is in this Act referred to as "a members' voluntary winding up", and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as "a creditors' voluntary winding up".

(5) Subsections (1) to (3) of this section shall not apply to a winding up commenced before the commencement of this Act.

Provisions applicable to a Members' Voluntary Winding Up.

284. The provisions contained in the seven sections of this Act next following shall, subject to the provisions of the last of them, apply in relation to a members' voluntary winding up.

Provisions applicable to a members' winding up

285.—(1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

Power of company to appoint and fix remuneration of liquidators

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting or the liquidator sanctions the continuance thereof.

286.—(1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

Power to fill vacancy in office of liquidator

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

287.—(1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Act or not (in this section called "the transferee company"), the liquidator of the first-mentioned company (in this section called "the transferor company") may, with the sanction of a special resolution

Power of liquidator to accept shares, &c., as consideration for sale of property of company.

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—cont

of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but, if an order is made within a year for winding up the company by or subject to the supervision of the court, the special resolution shall not be valid unless sanctioned by the court.

(6) For the purposes of an arbitration under this section, the provisions of the Companies Clauses Consolidation Act, 1845, or, in the case of a winding up in Scotland, the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this Act, and in the construction of those provisions this Act shall be deemed to be the special Act and "the company" shall mean the transferor company, and any appointment by the said incorporated provisions directed to be made under the hand of the secretary or any two of the directors may be made under the hand of the liquidator, or, if there is more than one liquidator, then of any two or more of the liquidators.

8 & 9 Vict.
c. 16.
8 & 9 Vict.
c. 17.

288.—(1) If, in the case of a winding up commenced after the commencement of this Act, the liquidator is at any time of opinion that the company will not be able to pay its debts in full within the period stated in the declaration under section two hundred and eighty-three of this Act 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.

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—cont
Duty of liquidator to call creditors meeting in case of insolvency.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding fifty pounds.

289.—(1) Subject to the provisions of section two hundred and ninety-one of this Act, in the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within three months from the end of the year or such longer period as the Board of Trade may allow, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

Duty of liquidator to call general meeting at end of each year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding ten pounds.

290.—(1) Subject to the provisions of the next following section, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

Final meeting and dissolution.

(2) The meeting shall be called by advertisement in the Gazette, specifying the time, place and object thereof, and published one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall send to the registrar of companies a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine not exceeding five pounds for every day during which the default continues:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned

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—cont.

and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall be deemed to have been complied with.

(4) The registrar on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to deliver to the registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(6) If the liquidator fails to call a general meeting of the company as required by this section, he shall be liable to a fine not exceeding fifty pounds.

Alternative provisions as to annual and final meetings in case of insolvency.

291. Where section two hundred and eighty-eight of this Act has effect, sections two hundred and ninety-nine and three hundred thereof shall apply to the winding up to the exclusion of the two last foregoing sections, as if the winding up were a creditors' voluntary winding up and not a members' voluntary winding up:

Provided that the liquidator shall not be required to summon a meeting of creditors under the said section two hundred and ninety-nine at the end of the first year from the commencement of the winding up, unless the meeting held under the said section two hundred and eighty-eight is held more than three months before the end of that year.

Provisions applicable to a Creditors' Voluntary Winding Up.

Provisions applicable to a creditors' winding up.

292. The provisions contained in the eight sections of this Act next following shall apply in relation to a creditors' voluntary winding up.

Meeting of creditors.

293.—(1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding

up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised once in the Gazette and once at least in two local newspapers circulating in the district where the registered office or principal place of business of the company is situate.

(3) The directors of the company shall—

(a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of the creditors to be held as aforesaid; and

(b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held in pursuance of subsection (1) of this section shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made—

(a) by the company in complying with subsections (1) and (2) of this section;

(b) by the directors of the company in complying with subsection (3) of this section;

(c) by any director of the company in complying with subsection (4) of this section;

the company, directors or director, as the case may be, shall be liable to a fine not exceeding one hundred pounds, and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

294. The creditors and the company at their respective meetings mentioned in the last foregoing section may ^{Appointment} nominate a person to be liquidator for the purpose of winding ^{of liquidator.} up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons,

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—*cont*

the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator :

Provided that in the case of different persons being nominated, any director, member or creditor of the company may, within seven days after the date on which the nomination was made by the creditors, apply to the court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors or appointing some other person to be liquidator instead of the person appointed by the creditors.

Appointment
of committee
of inspection.

295.—(1) The creditors at the meeting to be held in pursuance of section two hundred and ninety-three of this Act or at any subsequent meeting may, if they think fit, appoint a committee of inspection consisting of not more than five persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number :

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the court otherwise directs, be qualified to act as members of the committee, and on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

(2) Subject to the provisions of this section and to general rules, the provisions of sections two hundred and fifty-three (except subsection (1)) and two hundred and fifty-five of this Act shall apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding up by the court.

Fixing of
liquidators'
remuneration
and cesser of
directors'
powers

296.—(1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

297. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the court, the creditors may fill the vacancy.

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—cont.
Power to fill vacancy in office of liquidator.

298. The provisions of section two hundred and eighty-seven of this Act shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the court or of the committee of inspection.

Application of s. 287 to a creditors' voluntary winding up

299.—(1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of the creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within three months from the end of the year or such longer period as the Board of Trade may allow, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.

Duty of liquidator to call meetings of company and of creditors at end of each year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding ten pounds.

300.—(1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors for the purpose of laying the account before the meetings and giving any explanation thereof.

Final meeting and dissolution.

(2) Each such meeting shall be called by advertisement in the Gazette specifying the time, place and object thereof, and published one month at least before the meeting.

(3) Within one week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the registrar of companies a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine not exceeding five pounds for every day during which the default continues:

Provided that, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return hereinbefore

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—cont

mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat and upon such a return being made the provisions of this subsection as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The registrar on receiving the account and, in respect of each such meeting, either of the returns hereinbefore mentioned, shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to deliver to the registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(6) If the liquidator fails to call a general meeting of the company or a meeting of the creditors as required by this section, he shall be liable to a fine not exceeding fifty pounds.

Provisions applicable to every voluntary winding up.

Provisions applicable to every Voluntary Winding Up.

301. The provisions contained in the nine sections of this Act next following shall apply to every voluntary winding up whether a members' or a creditors' winding up.

Distribution of property of company.

302. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu*, and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Powers and duties of liquidator in voluntary winding up.

303.—(1) The liquidator may—

(a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and, in the case of a creditors' voluntary winding up, with the sanction of the court or the committee of inspection or (if there is no such committee) a meeting of the creditors, exercise any of the powers given by paragraphs (d), (e) and (f) of sub-

- section (1) of section two hundred and forty-five of this Act to a liquidator in a winding up by the court;
- (b) without sanction, exercise any of the other powers by this Act given to the liquidator in a winding up by the court;
- (c) exercise the power of the court under this Act of settling a list of contributories, and the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories;
- (d) exercise the power of the court of making calls;
- (e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two.

304.—(1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.

Power of court to appoint and remove liquidator in voluntary winding up.

(2) The court may, on cause shown, remove a liquidator and appoint another liquidator.

Notice by liquidator of his appointment.

305.—(1) The liquidator shall, within fourteen days after his appointment, publish in the Gazette and deliver to the registrar of companies for registration a notice of his appointment in the form prescribed by statutory instrument made by the Board of Trade.

(2) If the liquidator fails to comply 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.

306.—(1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution and on the creditors if acceded to by three fourths in number and value of the creditors.

Arrangement when binding on creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the court

PART V.
—*cont.*

against it, and the court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

Power to apply to court to have questions determined or powers exercised.

307.—(1) The liquidator or any contributory or creditor may apply to the court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit or may make such other order on the application as it thinks just.

(3) A copy of an order made by virtue of this section staying the proceedings in the winding up shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall make a minute of the order in his books relating to the company.

Power of court in Scotland to stay proceedings against company.

308.—(1) If the court, on the application of the liquidator in the winding up of a company registered in Scotland, so directs, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court and subject to such terms as the court may impose.

(2) Nothing in this section shall be taken to affect the practice or powers of the court as existing immediately before the first day of November, nineteen hundred and twenty-nine, with respect to the staying of proceedings against a company registered in England and in course of being wound up.

Costs of voluntary winding up.

309. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

Saving for rights of creditors and contributories.

310. The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the court, but in the case of an application by a contributory the court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.

(iv) WINDING UP SUBJECT TO SUPERVISION OF COURT.

Power to order winding up subject to supervision.

311. When a company has passed a resolution for voluntary winding up, the court may make an order that the voluntary winding up shall continue but subject to such supervision of the court, and with such liberty for creditors, contributories, or others to apply to the court, and generally on such terms and conditions, as the court thinks just.

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—cont

312. A petition for the continuance of a voluntary winding up subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be deemed to be a petition for winding up by the court.

Effect of petition for winding up subject to supervision.

313. A winding up subject to the supervision of the court shall, for the purposes of sections two hundred and twenty-seven and two hundred and twenty-eight of this Act be deemed to be a winding up by the court.

Application of ss. 227 and 228 to winding up subject to supervision

314.—(1) Where an order is made for a winding up subject to supervision, the court may by that or any subsequent order appoint an additional liquidator.

Power of court to appoint or remove liquidators.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position, as if he had been duly appointed in accordance with the provisions of this Act with respect to the appointment of liquidators in a voluntary winding up.

(3) The court may remove any liquidator so appointed by the court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

315.—(1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the sanction or intervention of the court, in the same manner as if the company were being wound up altogether voluntarily:

Effect of supervision order.

Provided that the powers specified in paragraphs (d), (e) and (f) of subsection (1) of section two hundred and forty-five of this Act shall not be exercised by the liquidator except with the sanction of the court or, in a case where before the order the winding up was a creditors' voluntary winding up, with the sanction of the court or the committee of inspection, or (if there is no such committee) a meeting of the creditors.

(2) A winding up subject to the supervision of the court is not a winding up by the court for the purpose of the provisions of this Act specified in the Eleventh Schedule to this Act, but, subject as aforesaid, an order for a winding up subject to supervision shall for all purposes be deemed to be an order for winding up by the court:

Provided that where the order for winding up subject to supervision was made in relation to a creditors' voluntary winding up in which a committee of inspection had been appointed, the order shall be deemed to be an order for winding up by the court for the purpose of section

PART V.
—cont.

two hundred and fifty-three (except subsection (I) thereof) and section two hundred and fifty-five of this Act except in so far as the operation of those sections is excluded in a voluntary winding up by general rules.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP.

Proof and Ranking of Claims.

Debts of all descriptions may be proved.

316. In every winding up (subject, in the case of insolvent companies, to the application in accordance with the provisions of this Act of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

Application of bankruptcy rules in winding up of insolvent English companies.

317. In the winding up of an insolvent company registered in England the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy in England with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up and make such claims against the company as they respectively are entitled to by virtue of this section.

Ranking of claims in Scotland.
3 & 4 Geo. 5.
c. 20.

318. In the winding up of a company registered in Scotland, the following provisions of the Bankruptcy (Scotland) Act, 1913, that is to say,—

- (a) the provisions of sections forty-five to sixty-two regarding voting and ranking for payment of dividends;
- (b) sections ninety-six and one hundred and five, which respectively relate to the reckoning of majorities and to the interruption of prescription;

shall so far as is consistent with this Act apply in like manner as they apply in the sequestration of a bankrupt's estate, with the substitution of references to winding up for references to sequestration, of references to the court for references to the sheriff, of references to the liquidator for references to the trustee, and of references to the company for references to the bankrupt, and with any other necessary modifications.

319.—(1) In a winding up there shall be paid in priority to all other debts—

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—*cont.*
Preferential
payments.

(a) the following rates and taxes,—

(i) all local rates due from the company at the relevant date, and having become due and payable within twelve months next before that date;

(ii) all land tax, income tax, profits tax, excess profits tax or other assessed taxes assessed on the company up to the fifth day of April next before that date, and not exceeding in the whole one year's assessment;

(iii) the amount of any purchase tax due from the company at the relevant date, and having become due within twelve months next before that date;

(b) all wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the company during four months next before the relevant date and all wages (whether payable for time or for piece work) of any workman or labourer in respect of services so rendered;

(c) any sum ordered under the Reinstatement in Civil Employment Act, 1944, to be paid by way of compensation where the default by reason of which the order for compensation was made occurred before the relevant date, whether or not the order was made before that date;

7 & 8 Geo. 6.
c. 15.

(d) all accrued holiday remuneration becoming payable to any 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 before or by the effect of the winding-up order or resolution;

(e) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all amounts due in respect of contributions payable during the twelve months next before the relevant date by the company as the employer of any persons under the Unemployment Insurance Act, 1935, the National Health Insurance Act, 1936, the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance Act, 1946;

25 & 26 Geo. 5.
c. 8.
26 Geo. 5. &
1 Edw. 8. c. 32.
26 Geo. 5. &
1 Edw. 8. c. 33.

(f) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, or unless the

9 & 10 Geo. 6.
c. 62.
9 & 10 Geo. 6.
c. 67.

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—cont.15 & 16 Geo. 5.
c. 84.

company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section seven of the Workmen's Compensation Act, 1925, rights capable of being transferred to and vested in the workman, all amounts due in respect of any compensation or liability for compensation under the said Act, being amounts which have accrued before the relevant date in satisfaction of a right which arises or has arisen in respect of employment before the fifth day of July, nineteen hundred and forty-eight (that is to say, the day appointed for the purposes of the National Insurance (Industrial Injuries) Act 1946);

24 & 25 Geo. 5.
c. 23.

- (g) the amount of any debt which, by virtue of subsection (5) of section three of the Workmen's Compensation (Coal Mines) Act, 1934, is due from the company to an insurer in respect of a liability in respect of the satisfaction of a right falling within the last foregoing paragraph.

(2) Notwithstanding anything in paragraphs (b) and (c) of the foregoing subsection, the sum to which priority is to be given under those paragraphs respectively shall not, in the case of any one claimant, exceed two hundred pounds:

Provided that where a claimant under the said paragraph (b) is a labourer in husbandry who has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the relevant date.

(3) Where any compensation under the Workmen's Compensation Act, 1925, is a weekly payment, the amount due in respect thereof shall, for the purposes of paragraph (f) of subsection (1) of this section, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the said Act.

(4) Where any payment has been made—

- (a) to any clerk, servant, workman or labourer in the employment of a company, on account of wages or salary; or
- (b) to any such clerk, servant, workman or labourer or, in the case of his death, to any other person in his right, on account of accrued holiday remuneration;

out of money advanced by some person for that purpose, the person by whom the money was advanced shall in a winding up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of

which the clerk, servant, workman or labourer, or other person in his right, would have been entitled to priority in the winding up has been diminished by reason of the payment having been made.

(5) The foregoing debts shall—

- (a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and
- (b) in the case of a company registered in England, so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(6) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given by paragraph (e) of subsection (1) of this section formal proof thereof shall not be required except in so far as is otherwise provided by general rules.

(7) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(8) For the purposes of this section—

- (a) 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;
- (b) 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;

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- (c) 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 the National Insurance Act, 1946, or any enactment repealed by that Act as remuneration in respect of that period; and
- (d) the expression " the relevant date " means—
- (i) in the case of a company ordered to be wound up compulsorily, the date of the appointment (or first appointment) of a provisional liquidator, or, 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
 - (ii) in any case where the foregoing sub-paragraph does not apply, means the date of the passing of the resolution for the winding up of the company.

(9) This section shall not apply in the case of a winding up where the relevant date as defined in subsection (7) of section two hundred and sixty-four of the Companies Act, 1929, as originally enacted, occurred before the commencement of this Act, and in such a case the provisions relating to preferential payments which would have applied if this Act had not passed shall be deemed to remain in full force.

Effect of Winding Up on antecedent and other Transactions.

Fraudulent preference.

320.—(1) Any conveyance, mortgage, delivery of goods, payment, execution or other act relating to property made or done by or against a company within six months before the commencement of its winding up which, had it been made or done by or against an individual within six months before the presentation of a bankruptcy petition on which he is adjudged bankrupt, would be deemed in his bankruptcy a fraudulent preference, shall in the event of the company being wound up be deemed a fraudulent preference of its creditors and be invalid accordingly:

Provided that, in relation to things made or done before the commencement of this Act, this subsection shall have effect with the substitution, for references to six months, of references to three months.

(2) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

(3) In the application to Scotland of this section, the expression " fraudulent preference " includes any alienation

or preference which is voidable by statute or at common law on the ground of insolvency or notour bankruptcy, the expression "bankruptcy petition" means petition for sequestration and for the words "three months" there shall be substituted the words "sixty days".

321.—(1) Where, in the case of a company wound up in England, anything made or done after the commencement of this Act is void under the last foregoing section 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.

Liabilities and rights of certain fraudulently preferred persons.

(2) 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.

(3) 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.

322.—(1) Where a company is being wound up, a floating charge on the undertaking or property of the company created within twelve months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum or such other rate as may for the time being be prescribed by order of the Treasury:

Effect of floating charge.

PART V.
—cont.

Provided that, in relation to a charge created more than six months before the commencement of this Act, this section shall have effect with the substitution, for the words " twelve months ", of the words " six months ".

(2) The power conferred by this section on the Treasury shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Disclaimer
of onerous
property in
case of
company
wound up
in England.

323.—(1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act or to the payment of any sum of money, the liquidator of the company, notwithstanding that he has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto, may, with the leave of the court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the court, disclaim the property :

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company, and the property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the court, given notice to the applicant that he intends to apply to the court for

leave to disclaim, and, in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the company shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee by demise, including a chargee by way of legal mortgage, except upon the terms of making that person—

- (a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or
- (b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the court shall have power to vest the estate and interest of the company in the property in any person liable either personally or in a representative character, and either alone or jointly with the company, to

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perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the company.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

(8) This section shall not apply in the case of a winding up in Scotland.

Liability for
rentcharge
on company's
land after
disclaimer.

324.—(1) Where on a disclaimer under the last preceding section land in England vests subject to a rentcharge in the Crown or any other person 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 commencement of this Act.

Restriction of
rights of
creditor as to
execution or
attachment
in case of
company being
wound up in
England.

325.—(1) Where a creditor has issued execution against the goods or lands of a company or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the company unless he has completed the execution or attachment before the commencement of the winding up:

Provided that—

- (a) where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall, for the purposes of the foregoing provision, be substituted for the date of the commencement of the winding up;
- (b) a person who purchases in good faith under a sale by the sheriff any goods of a company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator; and
- (c) the rights conferred by this subsection on the liquidator 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.

(2) For the purposes of this section, an execution against goods shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to be completed by seizure and, in the case of an equitable interest, by the appointment of a receiver.

(3) In this section the expression " goods " includes all chattels personal, and the expression " sheriff " includes any officer charged with the execution of a writ or other process.

(4) This section shall not apply in the case of a winding up in Scotland.

326.—(1) Subject to the provisions of subsection (3) of this section, where any goods of a company are taken in execution, and, before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the sheriff that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding up has been passed, the sheriff shall, on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator, but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying that charge.

Duties of sheriff as to goods taken in execution.

(2) Subject to the provisions of subsection (3) of this section, where under an execution in respect of a judgment for a sum exceeding twenty pounds the goods of a company are sold or money is paid in order to avoid sale, the sheriff shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for fourteen days, and if within that time notice is served on him of a petition for the winding up of the company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company and an order is made or a resolution is passed, as the case may be, for the winding up of the company, the sheriff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(3) The rights conferred by this section on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court thinks fit.

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—cont

(4) In this section the expression "goods" includes all chattels personal, and the expression "sheriff" includes any officer charged with the execution of a writ or other process.

(5) This section shall not apply in the case of a winding up in Scotland.

Effect of diligence within 60 days of winding up in case of Scottish company, and in case of effects in Scotland of English company.

327.—(1) In the winding up of a company registered in Scotland, the following provisions shall have effect:—

(a) the winding up shall, as at the date of the commencement thereof, be equivalent to an arrestment in execution and decree of furthcoming, and to an executed or completed poinding, and no arrestment or poinding of the funds or effects of the company executed on or after the sixtieth day prior to that date shall be effectual, and those funds or effects or the proceeds of those effects if sold shall be made forthcoming to the liquidator:

Provided that any arrester or pointer before that date who is thus deprived of the benefit of his diligence shall have preference out of those funds or effects for the expense bona fide incurred by him in such diligence;

(b) the winding up shall, as at the date aforesaid, be equivalent to a decree of adjudication of the heritable estates of the company for payment of the whole debts of the company, principal and interest, accumulated at the said date, subject to such preferable heritable rights and securities as existed at the said date and are valid and unchallengeable, and the right to poind the ground hereinafter provided;

(c) the provisions of sections one hundred and eight to one hundred and thirteen and of section one hundred and sixteen of the Bankruptcy (Scotland) Act, 1913, shall, so far as is consistent with this Act, apply to the realisation of heritable estates affected by such heritable rights and securities as aforesaid, and for the purposes of this Act the words "sequestration" and "trustee" occurring in those sections shall mean respectively "winding up" and "liquidator," and the expression "the Lord Ordinary or the court" shall mean "the court" as defined by this Act with respect to Scotland;

(d) no poinding of the ground which has not been carried into execution by sale of the effects sixty days before the date aforesaid shall, except to the

extent hereinafter provided, be available in any question with the liquidator:

Provided that no creditor who holds a security over the heritable estate preferable to the right of the liquidator shall be prevented from executing a pouncing of the ground after the date aforesaid, but that pouncing shall in competition with the liquidator be available only for the interest on the debt for the current half-yearly term, and for the arrears of interest for one year immediately before the commencement of that term.

(2) The provisions of this section shall, so far as relates to any estate or effects of the company situate in Scotland, apply in the case of a company registered in England as it applies in the case of a company registered in Scotland.

Offences antecedent to or in course of Winding Up.

328.—(1) If any person, being a past or present officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the court or voluntarily, or is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up—

Offences by
officers of
companies in
liquidation.

- (a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company; or
- (b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up; or
- (c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up; or
- (d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of ten pounds or upwards, or conceals any debt due to or from the company; or
- (e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of

PART V
—cont.

- the company to the value of ten pounds or upwards;
or
- (f) makes any material omission in any statement relating to the affairs of the company; or
 - (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or
 - (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company; or
 - (i) within twelve months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to the property or affairs of the company; or
 - (j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company; or
 - (k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the company; or
 - (l) after the commencement of the winding up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding up attempts to account for any part of the property of the company by fictitious losses or expenses; or
 - (m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for; or
 - (n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

- (o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging, or disposing is in the ordinary way of the business of the company; or
- (p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up;

he shall be guilty of a misdemeanour and shall, in the case of the offences mentioned respectively in paragraphs (m), (n) and (o) of this subsection, be liable on conviction on indictment to penal servitude for a term not exceeding five years, or on summary conviction to imprisonment for a term not exceeding twelve months, and in the case of any other offence 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 twelve months:

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f), (n) and (o), if the accused proves that he had no intent to defraud, and to a charge under any of paragraphs (h), (i) and (j), if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to a misdemeanour under paragraph (o) of subsection (1) of this section, every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid shall be guilty of a misdemeanour, and on conviction thereof liable—

- (a) in England to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to a misdemeanour;
- (b) in Scotland on conviction on indictment to penal servitude for a period not exceeding seven years, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine.

(3) For the purposes of this section, the expression "officer" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

PART V.
—*cont.*
Penalty for
falsification of
books.

329. If any officer or contributory of any company being wound up destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of a misdemeanour, and be liable to imprisonment for any term not exceeding two years, with or without hard labour.

Frauds by
officers of
companies
which have
gone into
liquidation.

330. If any person, being at the time of the commission of the alleged offence an officer of a company which is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up,—

- (a) has by false pretences or by means of any other fraud induced any person to give credit to the company;
- (b) with intent to defraud creditors of the company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the company;
- (c) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against the company;

he shall be guilty of a misdemeanour and 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 twelve months.

Liability
where proper
accounts not
kept.

331.—(1) If where a company is wound up it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is the shorter, every officer of the company who is in default shall, unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on the default was excusable, be liable on conviction on indictment to imprisonment for a term not exceeding one year, or on summary conviction to imprisonment for a term not exceeding six months.

(2) For the purposes of this section, proper books of account shall be deemed not to have been kept in the case of any company if there have not been kept such books or accounts as are necessary to exhibit and explain the transactions and financial position of the trade or business of the

company, including books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of the annual stocktakings and (except in the case of goods sold by way of ordinary retail trade) of all goods sold and purchased, showing the goods and the buyers and sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified.

332.—(1) If in the course of the winding up of a company it appears that any business of the company has been carried on with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose, the court, on the application of the official receiver, or the liquidator or any creditor or contributory of the company, may, if it thinks proper so to do, declare that any persons who were knowingly parties to the carrying on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the court may direct.

Responsibility
for fraudulent
trading of
persons
concerned.

On the hearing of an application under this subsection the official receiver or the liquidator, as the case may be, may himself give evidence or call witnesses.

(2) Where the court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may make provision for making the liability of any such person under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the person liable or any company or person acting on his behalf, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection.

For the purpose of this subsection, the expression "assignee" includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in subsection

PART V.
—cont.

(1) of this section, every person who was knowingly a party to the carrying on of the business in manner aforesaid, shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both.

(4) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made, and where the declaration under subsection (1) of this section is made in the case of a winding up in England, the declaration shall be deemed to be a final judgment within the meaning of paragraph (g) of subsection (1) of section one of the Bankruptcy Act, 1914.

4 & 5 Geo. 5.
c. 59.Power of court
to assess
damages
against
delinquent
directors, &c.

333.—(1) If in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of the official receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

(3) Where in the case of a winding up in England an order for payment of money is made under this section, the order shall be deemed to be a final judgment within the meaning of paragraph (g) of subsection (1) of section one of the Bankruptcy Act, 1914.

Prosecution of
delinquent
officers and
members of
company.

334.—(1) If it appears to the court in the course of a winding up by, or subject to the supervision of, the court that any past or present officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator to refer the matter, in the case of a winding up in England, to the Director of Public Prosecutions, and, in the case of a winding up in Scotland, to the Lord Advocate.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter, in the case of a winding up in England, to the Director of Public Prosecutions, and, in the case of a winding up in Scotland, to the Lord Advocate, and shall furnish to the Director or Lord Advocate, as the case may be, such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator and relating to the matter in question, as they respectively may require.

(3) Where any report is made under the last foregoing subsection to the Director of Public Prosecutions or Lord Advocate, he may, if he thinks fit, refer the matter to the Board of Trade for further enquiry, and the Board shall thereupon investigate the matter and may if they think it expedient, apply to the court for an order conferring on the Board or any person designated by the Board for the purpose with respect to the company concerned all such powers of investigating the affairs of the company as are provided by this Act in the case of a winding up by the court.

(4) If it appears to the court in the course of a voluntary winding up that any past or present officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the Director of Public Prosecutions or the Lord Advocate under subsection (2) of this section, the court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of subsection (2) of this section.

(5) If, where any matter is reported or referred to the Director of Public Prosecutions or Lord Advocate under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall institute proceedings accordingly, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which he is reasonably able to give.

For the purposes of this subsection, the expression "agent" in relation to a company shall be deemed to include

PART V.
—cont.

any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(6) If any person fails or neglects to give assistance in manner required by the last foregoing subsection, the court may, on the application of the Director of Public Prosecutions or Lord Advocate, as the case may be, direct that person to comply with the requirements of the said subsection, and where any such application is made with respect to a liquidator the court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.

Supplementary Provisions as to Winding up.

Disqualifica-
tion for
appointment
as liquidator.

335. A body corporate shall not be qualified for appointment as liquidator of a company, whether in a winding up by or under the supervision of the court or in a voluntary winding up, and—

- (a) any appointment made in contravention of this provision shall be void; and
- (b) any body corporate which acts as liquidator of a company shall be liable to a fine not exceeding one hundred pounds.

Corrupt
inducement
affecting
appointment
as liquidator.

336. 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.

Enforcement
of duty of
liquidator
to make
returns, &c.

337.—(1) If any liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the court may, on an application made to the court by any contributory or creditor of the company or by the registrar of companies, make an order directing the liquidator to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default as aforesaid.

338.—(1) Where a company is being wound up, whether by or under the supervision of the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

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—cont.
Notification
that a
company is in
liquidation.

(2) If default is made in complying with this section, the company and any of the following persons who knowingly and wilfully authorises or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, shall be liable to a fine of twenty pounds.

339.—(1) In the case of a winding up by the court of a company registered in England, or of a creditors' voluntary winding up of such a company,—

Exemption
of certain
documents
from stamp
duty on
winding up of
companies.

(a) every assurance relating solely to freehold or leasehold property, or to any mortgage, charge or other encumbrance on, or any estate, right or interest in, any real or personal property, which forms part of the assets of the company and which, after the execution of the assurance, either at law or in equity, is or remains part of the assets of the company; and

(b) every power of attorney, proxy paper, writ, order, certificate, affidavit, bond or other instrument or writing relating solely to the property of any company which is being so wound up, or to any proceeding under any such winding up,

shall be exempt from duties chargeable under the enactments relating to stamp duties.

(2) In the case of such a winding up as aforesaid of a company registered in Scotland—

(a) every conveyance relating solely to property which forms part of the assets of the company and which, after the execution of the conveyance, is or remains the property of the company for the benefit of its creditors; and

(b) every power of attorney, commission, factory, oath, affidavit, articles of roup or sale, submission, decree arbitral, and every other instrument and writing whatsoever relating solely to the property of the company; and

(c) every deed or writing forming a part of the proceedings in the winding up,

shall be exempt from duties chargeable under the enactments relating to stamp duties.

PART V.
—cont.

(3) In subsection (1) of this section the expression “assurance” includes deed, conveyance, assignment and surrender, and in subsection (2) of this section the expression “conveyance” includes assignation, instrument, discharge, writing and deed.

Books of
company to
be evidence.

340. Where a company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be prima facie evidence of the truth of all matters purporting to be therein recorded.

Disposal of
books and
papers of
company.

341.—(1) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows, that is to say:—

- (a) in the case of a winding up by or subject to the supervision of the court, in such way as the court directs;
- (b) in the case of a members' voluntary winding up, in such way as the company by extraordinary resolution directs, and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the company, may direct.

(2) After five years from the dissolution of the company no responsibility shall rest on the company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) Provision may be made by general rules for enabling the Board of Trade to prevent, for such period (not exceeding five years from the dissolution of the company) as the Board think proper, the destruction of the books and papers of a company which has been wound up, and for enabling any creditor or contributory of the company to make representations to the Board and to appeal to the court from any direction which may be given by the Board in the matter.

(4) If any person acts in contravention of any general rules made for the purposes of this section or of any direction of the Board thereunder, he shall be liable to a fine not exceeding one hundred pounds.

Information
as to pending
liquidations.

342.—(1) If where a company is being wound up the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the

registrar of companies a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) If a liquidator fails to comply with this section, he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues.

343.—(1) If, where a company is being wound up in England, it appears either from any statement sent to the registrar under the last foregoing section or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt or 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, the liquidator shall forthwith pay the said money to the Companies Liquidation Account at the Bank of England, and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

Unclaimed
assets in
England to be
paid to
Companies
Liquidation
Account

(2) For the purpose of ascertaining and getting in any money payable into the Bank of England in pursuance of this section, the like powers may be exercised, and by the like authority, as are exercisable under section one hundred and fifty-three of the Bankruptcy Act, 1914, for the purpose of ascertaining and getting in the sums, funds and dividends referred to in that section.

(3) Any person claiming to be entitled to any money paid into the Bank of England in pursuance of this section may apply to the Board of Trade for payment thereof, and the Board may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(4) Any person dissatisfied with the decision of the Board of Trade in respect of a claim made in pursuance of this section may appeal to the High Court.

344. When a company registered in Scotland has been wound up, and is about to be dissolved, the liquidator shall lodge in a joint stock bank of issue in Scotland (not being a bank in or of which the liquidator is acting partner, manager, agent or cashier) in the name of the Accountant of Court the whole unclaimed dividends and unapplied or undistributable balances, and the deposit receipts therefor shall be transmitted to the Accountant of Court, and the provisions of section one hundred and fifty-three of the Bankruptcy (Scotland) Act, 1913, so far as consistent with

Unclaimed
dividends, &c.,
in Scotland to
be lodged in
bank.

PART V.
—cont.

this Act, shall, with any necessary modifications, apply to sums lodged in a bank in pursuance of this section in like manner as they apply to sums deposited in pursuance of that enactment.

Resolutions passed at adjourned meetings of creditors and contributories.

345. Where a resolution is passed at an adjourned meeting of any creditors or contributories of a company, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Supplementary Powers of Court.

Meetings to ascertain wishes of creditors or contributories.

346.—(1) The court may, as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories of the company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by this Act or the articles.

Judicial notice of signature of officers.

347. In all proceedings under this Part of this Act, all courts, judges and persons judicially acting, and all officers, judicial or ministerial, of any court, or employed in enforcing the process of any court, shall take judicial notice of the signature of any officer of the High Court or of a county court in England, or of the Court of Session or of a sheriff court in Scotland, or of the High Court in Northern Ireland, and also of the official seal or stamp of the several offices of the High Court in England or Northern Ireland, or of the Court of Session, appended to or impressed on any document made, issued or signed under the provisions of this Part of this Act, or any official copy thereof.

Special commission for receiving evidence.

348.—(1) The judges of the county courts in England who sit at places more than twenty miles from the General Post Office, and in Northern Ireland the judge exercising the bankruptcy jurisdiction of the High Court and county court judges and recorders, and the sheriffs of counties in Scotland, shall be commissioners for the purpose of taking evidence under this Act, where a company is wound up in England or Scotland, and the court may refer the whole or any part

of the examination of any witnesses under this Act to any person hereby appointed commissioner although he is out of the jurisdiction of the court that made the winding up order.

(2) Every commissioner shall, in addition to any powers which he might lawfully exercise as a judge of county courts, judge exercising the said bankruptcy jurisdiction, county court judge, recorder or sheriff, have in the matter so referred to him all the same powers of summoning and examining witnesses, of requiring the production or delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses, as the court which made the winding-up order.

(3) The examination so taken shall be returned or reported to the court which made the order in such manner as that court directs.

349.—(1) The court may direct the examination in Scotland of any person for the time being in Scotland, whether a contributory of the company or not, in regard to the trade, dealings, affairs or property of any company in course of being wound up, or of any person being a contributory of the company, so far as the company may be interested therein by reason of his being a contributory.

Court may order examination of persons in Scotland

(2) The order or commission to take the examination aforesaid shall be directed to the sheriff of the county in which the person to be examined is residing or happens to be for the time, and the sheriff shall summon that person to appear before him at a time and place to be specified in the summons for examination on oath as a witness or as a haver, and to produce any books or papers called for which are in his possession or power.

(3) The sheriff may take the examination either orally or on written interrogatories, and shall report the same in writing in the usual form to the court, and shall transmit with the report the books and papers produced, if the originals thereof are required and specified by the order or commission, or otherwise copies thereof or extracts therefrom authenticated by the sheriff.

(4) If any person so summoned fails to appear at the time and place specified, or refuses to be examined or to make the production required, the sheriff shall proceed against him as a witness or haver duly cited and failing to appear or refusing to give evidence or make production may be proceeded against by the law of Scotland.

(5) The sheriff shall be entitled to such fees, and the witness shall be entitled to such allowances, as sheriffs when acting as commissioners under appointment from the Court of

PART V.
—*cont.*

Session and as witnesses and havers are entitled to in the like cases according to the law and practice of Scotland.

(6) If any objection is stated to the sheriff by the witness, either on the ground of his incompetency as a witness, or as to the production required, or on any other ground, the sheriff may, if he thinks fit, report the objection to the court, and suspend the examination of the witness until it has been disposed of by the court.

Costs of application for leave to proceed against company being wound up in Scotland.

350.—(1) Where any petition or application for leave to proceed with an action or proceeding against a company which is being wound up in Scotland is unopposed and is granted by the court, the costs of such petition or application shall, unless the court otherwise directs, be added to the amount of the claim of the petitioner or applicant against the company.

(2) Nothing in this section shall be taken to affect the practice or powers of the court as existing immediately before the first day of November, nineteen hundred and twenty-nine, with respect to the costs of an application for leave to proceed with an action or proceeding against a company which is being wound up in England.

Affidavits, &c., in United Kingdom and dominions.

351.—(1) Any affidavit required to be sworn under the provisions or for the purposes of this Part of this Act may be sworn in the United Kingdom, or elsewhere within the dominions of His Majesty, before any court, judge or person lawfully authorised to take and receive affidavits or before any of His Majesty's consuls or vice-consuls in any place outside His Majesty's dominions.

(2) All courts, judges, justices, commissioners and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such court, judge, person, consul or vice-consul attached, appended or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part of this Act.

6 & 7 Geo. 6.
c. 35.

(3) Subsection (2) of section six of the Foreign Service Act, 1943 (which empowers His Majesty by Order in Council to make such amendments of any enactment as appear to him to be consequential on the establishment or reorganisation of His foreign service, including, in particular, such amendments of any reference to an office, rank or grade as appear to Him to be consequential on the abolition or alteration of the description thereof or on the creation of any new office, rank or grade corresponding thereto) shall have effect as if the reference to any enactment included a reference to this section.

Provisions as to Dissolution.

PART V

—cont.

352.—(1) Where a company has been dissolved, the court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

Power of court to declare dissolution of company void.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, or such further time as the court may allow, to deliver to the registrar of companies for registration an office copy of the order, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

353.—(1) Where the registrar of companies has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.

Registrar may strike defunct company off register

(2) If the registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Gazette, and send to the company by post, a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months, the registrar shall publish in the Gazette and send

PART V.
—cont.

to the company or the liquidator, if any, a like notice as is provided in the last foregoing subsection.

(5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Gazette, and on the publication in the Gazette of this notice the company shall be dissolved:

Provided that—

- (a) the liability, if any, of every director, managing officer and member of the company shall continue and may be enforced as if the company had not been dissolved; and
- (b) nothing in this subsection shall affect the power of the court to wind up a company the name of which has been struck off the register.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the court on an application made by the company or member or creditor before the expiration of twenty years from the publication in the Gazette of the notice aforesaid may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon an office copy of the order being delivered to the registrar for registration the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered, to the care of some officer of the company, or, if there is no officer of the company whose name and address are known to the registrar of companies, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

Property of
dissolved
company to
be bona
vacantia.

354. Where a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property but not including property held by the company on trust for any

other person) shall, subject and without prejudice to any order which may at any time be made by the court under the two last foregoing sections, be deemed to be bona vacantia and shall accordingly belong to the Crown, or to the Duchy of Lancaster or to the Duke of Cornwall for the time being, as the case may be, and shall vest and may be dealt with in the same manner as other bona vacantia accruing to the Crown, to the Duchy of Lancaster or to the Duke of Cornwall.

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355.—(1) Where any property vests in the Crown under the last preceding section, the Crown's title thereto under that section may be disclaimed by a notice signed by the Treasury Solicitor.

Power of
Crown to
disclaim title
to property
vesting under
foregoing
section.

(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 last preceding section, and subsections (2) and (6) of section three hundred and twenty-three of this Act and section three hundred and twenty-four thereof shall apply in relation to the property as if it had been disclaimed under subsection (1) of the said section three hundred and twenty-three immediately before the dissolution of the company.

(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

PART V.
—cont.

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 commencement of this Act, and where the vesting came to the notice of the Treasury Solicitor more than six months before the commencement of this Act 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 last preceding section 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 three hundred and twenty-three of this 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 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.

20 & 21 Vict.
c. 26.

Liability for
rentcharge
on company's
land after
dissolution.

356.—(1) Section three hundred and twenty-four of this Act shall apply to land in England which by operation of law vests subject to a rentcharge in the Crown or any other person on the dissolution of a company as it applies to land so vesting on a disclaimer under section three hundred and twenty-three of this Act.

(2) In this section the expression "company" includes any body corporate.

Special Provisions as to Stannaries.

Attachment
of debt due
to contributory
on winding up
in stannaries
court.

357. When several companies are in course of liquidation by or under the supervision of the court exercising the stannaries jurisdiction and acting under that jurisdiction, if it appears to the judge that a person who is a contributory of one of the companies is also a creditor claiming a debt against one of the other companies, the judge may (if after inquiry he thinks fit) direct that the debt, when allowed, shall be attached, and payment thereof to the creditor suspended for a time certain as a security for payment of any calls that

are or may in course of liquidation become due from him to the company of which he is a contributory; and the amount thereof shall be applied to such payment in due course:

Provided that such an order of attachment shall not prejudice any claim which the company so indebted to the creditor may have against him by way of set-off, counter-claim or otherwise, or any lawful claim of lien or specific charge on the debt in favour of any third person.

358.—(1) In the application to companies within the stannaries of the provisions of this Act with respect to preferential payments, the following modifications shall be made:— Preferential payments in stannaries cases.

- (a) in the case of a clerk or servant of such a company, the priority with respect to wages and salary given by this Act shall not extend to the principal agent, manager, purser or secretary;
- (b) all wages in relation to the mine of a miner, artizan, or labourer employed in or about the mine, including all earnings by a miner arising from any description of piece or other work, or as a tributer or otherwise, but not exceeding an amount equal to four months wages, shall be included amongst the payments which are, under this Act, to be made in priority to other debts;
- (c) the following debts, that is to say:—
 - (i) wages of any miner, artizan or labourer and accrued holiday remuneration becoming payable to or in right of any miner, artizan or labourer as mentioned in paragraph (d) of subsection (1) of section three hundred and nineteen of this Act, being wages or remuneration unpaid at the commencement of the winding up;
 - (ii) all such amounts due in respect of contributions payable in respect of a miner under the enactments mentioned in paragraph (e) of the said subsection (1) as are given priority by that paragraph; and
 - (iii) all such amounts due in respect of any compensation or liability for compensation under the Workmen's Compensation Act, 1925, payable to a miner or the dependants of a miner as are given priority by paragraph (f) of the said subsection (1);

shall be paid by the liquidator forthwith in priority to all costs, except (in the case of a winding up by the court) such costs of and incidental to the making of the winding up order as in the opinion of the

PART V.
—cont.

court have been properly incurred, and to all claims by mortgagees, execution creditors, or any other persons, except the claims of clerks and servants in respect of their wages or salary or accrued holiday remuneration due to them;

- (d) subject as aforesaid, the court may, by order, charge the whole or any part of the assets of the company, in priority to all claims and to all existing mortgages or charges thereon, with the payment of a sum sufficient to discharge the debts to be paid in priority under the last foregoing paragraph, together with interest thereon at a rate not exceeding five per cent. per annum, and this charge may be made in favour of any person who is willing to advance the requisite amount or any part thereof, and as soon as the said sum has been so advanced, the said debts shall be paid without delay so far as the amount advanced extends, and in such order of payment as the court directs;
- (e) the provision giving a right of priority to a person who has advanced money for the making of payments on account of wages, salary or accrued holiday remuneration shall have effect subject to the modifications contained in this section.

(2) References in the foregoing subsection to wages shall be construed as including references to such remuneration in respect of a period of holiday or absence from work as is deemed for the purposes of section three hundred and nineteen of this Act to be wages, and for the purposes of that subsection the expression "accrued holiday remuneration" has the same meaning as it has for the purposes of that section.

(3) The foregoing provisions of this section shall not apply in the case of such a winding up as is mentioned in subsection (g) of the said section three hundred and nineteen, and in such a case the provisions which, by virtue of that subsection, are deemed to remain in force shall have effect in their application to companies within the stannaries subject to the modifications subject to which they would have had effect if this Act had not passed.

Provisions
as to mine
club funds.

359.—(1) On the winding up of a company within the stannaries, contributions of the miners, artisans or labourers for the purpose of a mine club, or accident, or sick, or benefit fund shall not be deemed to be, or be applied as part of the assets of the company in liquidation of the debts of the company or otherwise, but shall be accounted for by the purser or any other person in possession of the fund to the liquidator,

and shall be recoverable by him, and be applied in accordance with the rules of the club.

PART V.
—cont

(2) Where the winding up is a voluntary winding up, any person claiming to be entitled to any such contributions or fund shall have the same right as the liquidator of applying to the court for directions, or to determine any question arising in the matter.

Central Accounts.

360.—(1) An account, to be called the Companies Liquidation Account, shall be kept by the Board of Trade with the Bank of England, and all moneys received by the Board in respect of proceedings under this Act in connexion with the winding up of companies in England shall be paid to that account.

Companies
Liquidation
Account.

(2) All payments out of money standing to the credit of the Board of Trade in the Companies Liquidation Account shall be made by the Bank of England in the prescribed manner.

361.—(1) Whenever the cash balance standing to the credit of the Companies Liquidation Account is in excess of the amount which in the opinion of the Board of Trade is required for the time being to answer demands in respect of companies' estates, the Board shall notify the excess to the Treasury and shall pay over the whole or any part of that excess, as the Treasury may require, to the Treasury, to such account as the Treasury may direct, and the Treasury may invest the sums paid over, or any part thereof, in Government securities to be placed to the credit of the said account.

Investment
of surplus
funds on
general
account.

(2) When any part of the money so invested is, in the opinion of the Board of Trade, required to answer any demands in respect of companies' estates, the Board shall notify to the Treasury the amount so required, and the Treasury shall thereupon repay to the Board such sum as may be required to the credit of the Companies Liquidation Account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The dividends on investments under this section shall be paid into the Bankruptcy and Companies Winding-up (Fees) Account established under the Economy (Miscellaneous Provisions) Act, 1926.

362.—(1) An account shall be kept by the Board of Trade of the receipts and payments in the winding up of each company in England, and, when the cash balance standing to the credit of the account of any company is in excess of the amount

Separate
accounts of
particular
estates.

PART V
—cont.

which, in the opinion of the committee of inspection, is required for the time being to answer demands in respect of that company's estate, the Board shall on the request of the committee, invest the amount not so required in Government securities, to be placed to the credit of the said account for the benefit of the company.

(2) When any part of the money so invested is, in the opinion of the committee of inspection, required to answer any demands in respect of the estate of the company, the Board of Trade shall, on the request of the committee, raise such sum as may be required by the sale of such part of the said securities as may be necessary.

(3) The dividends on investments under this section shall be paid to the credit of the company.

(4) When the balance at the credit of any company's account in the hands of the Board of Trade exceeds two thousand pounds, and the liquidator gives notice to the Board that the excess is not required for the purposes of the liquidation, the company shall be entitled to interest on the excess at the rate of two per cent. per annum or such other rate as may for the time being be prescribed by order of the Treasury.

(5) The power conferred by this section on the Treasury shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Officers.

Officers and remuneration.

363.—(1) The Board of Trade may, with the approval of the Treasury, appoint such additional officers as may be required by the Board for the execution as respects England of this Part of this Act, and may remove any person so appointed.

(2) The Board of Trade, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any officer of, or person attached to, the Board performing any duties under this Part of this Act in relation to the winding up of companies in England, and may vary, increase or diminish that remuneration as they think fit.

Returns by officers in English winding up.

364. The officers of the courts acting in the winding up of companies in England shall make to the Board of Trade such returns of the business of their respective courts and offices, at such times, and in such manner and form, as may be prescribed, and from those returns the Board shall cause books to be prepared which shall, under the regulations of the Board, be open for public information and searches.

Rules and Fees.

General rules and fees for winding up.

365.—(1) The Lord Chancellor may, with the concurrence of the President of the Board of Trade, make general rules for carrying into effect the objects of this Act so far as relates

to the winding up of companies in England, and the Court of Session may by Act of Sederunt make general rules for carrying into effect the objects of this Act so far as relates to the winding up of companies in Scotland.

(2) All rules made under this section shall be judicially noticed and shall have effect as if enacted by this Act.

(3) There shall be paid in respect of proceedings under this Act in relation to the winding up of companies in England such fees as the Lord Chancellor may, with the sanction of the Treasury, direct, and the Treasury may direct by whom and in what manner the same are to be collected and accounted for:

Provided that in fixing the fees aforesaid regard shall be had to the provisions of section fourteen of the Economy (Miscellaneous Provisions) Act, 1926.

(4) All rules made and directions given by the Lord Chancellor under this section shall be adopted by the authority for the time being empowered to make rules for regulating the practice or procedure in the Chancery Court of the County Palatine of Lancaster, but as so adopted shall have effect with the substitution of the words "vice-chancellor" for the word "judge," and of the word "registrar" for the word "master," and of the words "chambers of the registrar" for the words "chambers of the judge" and "judge's chambers", and any directions as to the remuneration to be allowed to officers of that court in respect of proceedings under this Act shall be subject to the sanction of the Chancellor of the Duchy and County Palatine of Lancaster.

(5) The powers conferred by this section on the Lord Chancellor, the Court of Session and the Treasury shall be exercisable by statutory instrument, and—

- (a) a statutory instrument containing general rules shall be laid before Parliament after being made;
- (b) the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing general rules made by the Court of Session in like manner as if the rules had been made by a Minister of the Crown.

PART VI.

RECEIVERS AND MANAGERS.

366. A body corporate shall not be qualified for appointment as receiver of the property of a company, and any body corporate which acts as such a receiver shall be liable to a fine not exceeding one hundred pounds.

Disqualification of body corporate for appointment as receiver.

PART VI.
—*cont.*
Disqualifica-
tion of
undischarged
bankrupt
from acting
as receiver or
manager.

367.—(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 before the commencement of this Act; or
- (b) he acts under an appointment made by order of a court.

Power in England
to appoint official
receiver as receiver
for debenture
holders or creditors.

368. Where an application is made to the court to appoint a receiver on behalf of the debenture holders or other creditors of a company which is being wound up by the court in England, the official receiver may be so appointed.

Receivers
and managers
appointed out
of court.

369.—(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) This section shall apply whether the receiver or manager was appointed before or after the commencement of this Act but subsection (2) thereof shall not apply to contracts entered into before the commencement of this Act.

Notification
that receiver
or manager
appointed.

370.—(1) Where a receiver or manager of the property of a company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the company or the receiver or manager or the liquidator of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver or manager has been appointed.

(2) If default is made in complying with the requirements of this section, the company and any of the following persons who knowingly and wilfully authorises or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, shall be liable to a fine of twenty pounds.

371.—(1) The court may, on an application made to the court by the liquidator of a company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the company. Power of court to fix remuneration on application of liquidator

(2) The power of the court under the foregoing subsection shall, where no previous order has been made with respect thereto under that subsection,—

- (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:

Provided that the power conferred by paragraph (c) of this subsection 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.

(3) The court may from time to time on an application made either by the liquidator or by the receiver or manager, vary or amend an order made under subsection (1) of this section.

(4) This section shall apply whether the receiver or manager was appointed before or after the commencement of this Act, and to periods before, as well as to periods after, the commencement of this Act.

372.—(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 Provisions as to information where receiver or manager appointed

PART VI.
—cont.

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 comment, 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 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.

(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.

373.—(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.

Special provisions as to statement submitted to receiver.

(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 direc-

PART VI.
—cont.

tion 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) References in this section to the receiver's successor shall include a continuing receiver or manager.

Delivery to registrar of accounts of receivers and managers.

374.—(1) Except where subsection (2) of section three hundred and seventy-two of this Act applies, every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument shall, within one month, or such longer period as the registrar of companies may allow, after the expiration of the period of six months from the date of his appointment and of every subsequent period of six months, and within one month after he ceases to act as receiver or manager, deliver to the registrar of companies for registration an abstract in the prescribed form showing his receipts and his payments during that

period of six 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 amount of his receipts and of his payments during all preceding periods since his appointment.

(2) Every receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five pounds for every day during which the default continues.

375.—(1) If any receiver or manager of the property of a company—

- (a)* having made default in filing, delivering or making any return, account or other document, or in giving any notice, which a receiver or manager is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so; or
- (b)* having been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the company so to do, failed to render proper accounts of his receipts and payments and to vouch the same and to pay over to the liquidator the amount properly payable to him;

Enforcement
of duty of
receivers and
managers to
make returns.
&c.

the court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order.

(2) In the case of any such default as is mentioned in paragraph *(a)* of the foregoing subsection, an application for the purposes of this section may be made by any member or creditor of the company or by the registrar of companies, and in the case of any such default as is mentioned in paragraph *(b)* of that subsection, the application shall be made by the liquidator, and in either case the order may provide that all costs of and incidental to the application shall be borne by the receiver or manager, as the case may be.

(3) Nothing in this section shall be taken to prejudice the operation of any enactments imposing penalties on receivers in respect of any such default as is mentioned in subsection (1) of this section.

376. It is hereby declared that, except where the context otherwise requires,—

- (a)* any reference in 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,

Construction
of references
to receivers
and
managers

PART VI.
—cont

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 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.

PART VII.

APPLICATION OF ACT TO COMPANIES FORMED OR REGISTERED UNDER FORMER ACTS.

Application of Act to companies formed and registered under former Companies Acts.

377. In the application of this Act to existing companies, it shall apply in the same manner—

- (a) in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares;
- (b) in the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee; and
- (c) in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Acts, the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929, as the case may be.

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Application of Act to companies registered but not formed under former Companies Acts.

378. This Act shall apply to every company registered but not formed under the Joint Stock Companies Acts, the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929, in the same manner as it is in Part VIII of this Act declared to apply to companies registered but not formed under this Act:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Acts, the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929, as the case may be.

379. This Act shall apply to every unlimited company registered as a limited company in pursuance of the Companies Act, 1879, section fifty-seven of the Companies (Consolidation) Act, 1908, or section sixteen of the Companies Act, 1929, in the same manner as it applies to an unlimited company registered in pursuance of this Act as a limited company:

PART VII.
—cont.
Application of Act to unlimited companies re-registered under former Companies Acts.

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered as a limited company under the said Act of 1879, the said section fifty-seven or the said section sixteen, as the case may be.

380.—(1) A company registered under the Joint Stock Companies Acts may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

Provisions as to companies registered under the Joint Stock Companies Acts.

(2) The power of altering articles under section ten of this Act shall, in the case of an unlimited company formed and registered under the Joint Stock Companies Acts, extend to altering any regulations relating to the amount of capital or to its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

381. Nothing in this Part of this Act shall apply to companies registered in Northern Ireland or Eire.

Exclusion of companies registered in Northern Ireland or Eire

PART VIII.

COMPANIES NOT FORMED UNDER THIS ACT AUTHORISED TO REGISTER UNDER THIS ACT.

382.—(1) With the exceptions and subject to the provisions contained in this section,—

Companies capable of being registered

- (a) any company consisting of seven or more members, which was in existence on the second day of November, eighteen hundred and sixty-two, including any company registered under the Joint Stock Companies Acts; and
- (b) any company formed after the date aforesaid, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act, or of letters patent, or being a company within the stannaries, or being otherwise duly constituted according to law, and consisting of seven or more members;

may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company

PART VIII.
—cont.

limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company's being wound up:

Provided that—

- (i) a company registered in any part of the United Kingdom under the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929, shall not register in pursuance of this section;
- (ii) a company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section;
- (iii) a company having the liability of its members limited by Act of Parliament or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;
- (iv) a company that is not a joint stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares;
- (v) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed) at a general meeting summoned for the purpose;
- (vi) where a company not having the liability of its members limited by Act of Parliament or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three fourths of the members present in person or by proxy at the meeting;
- (vii) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(2) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

383. For the purposes of this Part of this Act, as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a company when registered with limited liability under this Act shall be deemed to be a company limited by shares.

PART VIII.
—*cont.*
Definition of
joint stock
company.

384. Before the registration in pursuance of this Part of this Act of a joint stock company, there shall be delivered to the registrar the following documents:—

Requirements
for registration
by joint stock
companies.

- (a) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;
- (b) a copy of any Act of Parliament, royal charter, letters patent, deed of settlement, contract of copartnership, cost-book regulations or other instrument constituting or regulating the company; and
- (c) if the company is intended to be registered as a limited company, a statement specifying the following particulars:—
 - (i) the nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;
 - (ii) the number of shares taken and the amount paid on each share;
 - (iii) the name of the company, with the addition of the word " limited " as the last word thereof; and
 - (iv) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

385. Before the registration in pursuance of this Part of this Act of any company not being a joint stock company, there shall be delivered to the registrar—

Requirements
for registration
by other than
joint stock
companies.

- (a) a list showing the names, addresses, and occupations of the directors or other managers (if any) of the company; and

PART VIII.
—cont

- (b) a copy of any Act of Parliament, letters patent, deed of settlement, contract of copartnery, cost book regulations or other instrument constituting or regulating the company; and
- (c) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

Authentication of statements of existing companies

386. The lists of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company.

Registrar may require evidence as to nature of company

387. The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint stock company as hereinbefore defined.

Change of name for purposes of registration

388. Where the name of a company seeking registration under this Part of this Act 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 eighty-two of this Act required to the registration under this Act.

Addition of "limited" to name.

389. When a company registers in pursuance of this Part of this Act with limited liability, the word "limited" shall form, and be registered as, part of its name:

Provided that this section shall not be taken as excluding the operation of section nineteen of this Act.

Certificate of registration of existing companies.

390. On compliance with the requirements of this Part of this Act with respect to registration, and on payment of such fees, if any, as are payable under the following provisions of this Act, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited, and thereupon the company shall be so incorporated, and any banking company in Scotland so incorporated shall be deemed to be a bank incorporated, constituted, or established by or under Act of Parliament.

391. All property, real and personal (including things in action), belonging to or vested in a company at the date of its registration in pursuance of this Part of this Act, shall on registration pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

PART VIII.
—cont.
Vesting of
property on
registration

392. Registration of a company in pursuance of this Part of this Act shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

Saving for
existing
liabilities

393. All actions and other legal proceedings which at the time of the registration of a company in pursuance of this Part of this Act are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place :

Continuation
of existing
actions

Provided that execution shall not issue against the effects of any individual member of the company on any judgment, decree or order obtained in any such action or proceeding, but, in the event of the property and effects of the company being insufficient to satisfy the judgment, decree or order, an order may be obtained for winding up the company.

394.—(1) When a company is registered in pursuance of this Part of this Act, the following provisions of this section shall have effect.

Effect of
registration
under Part
VIII.

(2) All provisions contained in any Act of Parliament or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.

(3) All the provisions of this Act shall apply to the company, and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows:—

(a) Table A shall not apply unless adopted by special resolution;

PART VIII.

—cont.

- (b) the provisions of this Act relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered;
 - (c) subject to the provisions of this section the company shall not have power to alter any provision contained in any Act of Parliament relating to the company;
 - (d) subject to the provisions of this section the company shall not have power, without the sanction of the Board of Trade, to alter any provision contained in any letters patent relating to the company;
 - (e) the company shall not have power to alter any provision contained in a royal charter or letters patent with respect to the objects of the company;
 - (f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;
 - (g) in the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid, and, in the event of the death, bankruptcy, or insolvency, of any contributory, or marriage of any female contributory, the provisions of this Act with respect to the personal representatives, to the heirs and legatees of heritage of the heritable estate in Scotland of deceased contributories, to the trustees of bankrupt or insolvent contributories, and to the liabilities of husbands and wives respectively, shall apply.
- (4) The provisions of this Act with respect to—
- (a) the registration of an unlimited company as limited;
 - (b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of

its share capital shall not be capable of being called up except in the event of winding up;

PART VIII
—cont.

- (c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up;

shall apply notwithstanding any provisions contained in any Act of Parliament, royal charter or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorise the company to alter any such provisions contained in any instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act.

(6) None of the provisions of this Act (apart from those of subsection (3) of section two hundred and ten thereof) shall derogate from any power of altering its constitution or regulations which may, by virtue of any Act of Parliament or other instrument constituting or regulating the company, be vested in the company.

(7) In this section the expression "instrument" includes deed of settlement, contract of copartnery, cost-book regulations and letters patent.

395.—(1) Subject to the provisions of this section, a company registered in pursuance of this Part of this Act may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

Power to substitute memorandum and articles for deed of settlement.

(2) The provisions of section five of this Act with respect to applications to the court for cancellation of alterations of the objects of a company and matters consequential on the passing of resolutions for such alterations shall so far as applicable apply to an alteration under this section with the following modifications:—

- (a) there shall be substituted for the printed copy of the altered memorandum required to be delivered to the registrar of companies a printed copy of the substituted memorandum and articles; and
- (b) on the 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, the

PART VIII.
—cont

substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(4) In this section the expression " deed of settlement " includes any contract of copartnery or other instrument constituting or regulating the company, not being an Act of Parliament, a royal charter, or letters patent.

Power of court to stay or restrain proceedings.

396. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of a company registered in pursuance of this Part of this Act, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions stayed on winding-up order.

397. Where an order has been made for winding up a company registered in pursuance of this Part of this Act, no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

PART IX.

WINDING UP OF UNREGISTERED COMPANIES.

Meaning of unregistered company.
26 & 27
Vict. c. 87.

398. For the purposes of this Part of this Act, the expression " unregistered company " shall include any trustee savings bank certified under the Trustee Savings Banks Act, 1863, and any partnership, whether limited or not, any association and any company with the following exceptions:—

(a) a railway company incorporated by Act of Parliament, except in so far as is provided by the Abandonment of Railways Act, 1850, and the Abandonment of Railways Act, 1869, and any Acts amending them;

(b) a company registered in any part of the United Kingdom under the Joint Stock Companies Acts, the Companies Act, 1862, the Companies (Consolidation) Act, 1908, the Companies Act, 1929, or this Act;

13 & 14
Vict. c. 83.
32 & 33
Vict. c. 114.

- (c) a partnership, association or company which consists of less than eight members and is not a foreign partnership, association or company;
- (d) a limited partnership registered in England or Northern Ireland.

PART IX.
—cont.

399.—(1) Subject to the provisions of this Part of this Act, any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the exceptions and additions mentioned in the following provisions of this section.

Winding up of
unregistered
companies.

(2) If an unregistered company has a principal place of business situate in Northern Ireland, it shall not be wound up under this Part of this Act unless it has a principal place of business situate in England or Scotland or in both England and Scotland.

(3) An unregistered company shall, for the purpose of determining the court having jurisdiction in the matter of the winding up, be deemed to be registered in England or Scotland, according as its principal place of business is situate in England or Scotland, or if it has a principal place of business situate in both countries, to be registered in both countries, and the principal place of business situate in that part of Great Britain in which proceedings are being instituted shall, for all the purposes of the winding up, be deemed to be the registered office of the company.

(4) No unregistered company shall be wound up under this Act voluntarily or subject to supervision.

(5) The circumstances in which an unregistered company may be wound up are as follows:—

- (a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;
- (b) if the company is unable to pay its debts;
- (c) if the court is of opinion that it is just and equitable that the company should be wound up.

(6) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts:—

- (a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager

PART IX
—cont.

or principal officer of the company, or by otherwise serving in such manner as the court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum or to secure or compound for it to the satisfaction of the creditor;

- (b) if any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager or principal officer of the company, or by otherwise serving the same in such manner as the court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;
- (c) if in England or Northern Ireland execution or other process issued on a judgment, decree or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied;
- (d) if in Scotland the induciæ of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made;
- (e) if it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts.

(7) The court having jurisdiction to wind up a railway company under the Abandonment of Railways Act, 1850, and the Abandonment of Railways Act, 1869, and the Acts amending them, shall be the High Court or the Court of Session, according as the railway was authorised to be made in England or Scotland, and the special provisions of those Acts shall apply to the winding up.

(8) A petition for winding up a trustee savings bank may be presented by the National Debt Commissioners or by a commissioner appointed under the Trustee Savings Banks Act, 1887, as well as by any person authorised under the other provisions of this Act to present a petition for winding up a company.

PART IX
—cont.

50 & 51 Vict.
c. 47.

(9) In the case of a limited partnership the provisions of this Act with respect to winding up shall apply with such modifications, if any, as may be provided by rules made by statutory instrument by the Lord Chancellor with the concurrence of the President of the Board of Trade, and with the substitution of general partners for directors.

400. Where a company incorporated outside Great Britain which has been carrying on business in Great Britain ceases to carry on business in Great Britain, it may be wound up as an unregistered company under this Part of this Act, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated.

Oversea companies may be wound up although dissolved.

401.—(1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid:

Contributories in winding up of unregistered company.

Provided that, in the case of an unregistered company within the stannaries, a past member shall not be liable to contribute to the assets of the company if he has ceased to be a member for two years or more either before the mine ceased to be worked or before the date of the winding-up order.

(2) In the event of the death, bankruptcy or insolvency of any contributory or marriage of any female contributory, the provisions of this Act with respect to the personal representatives, to the heirs and legatees of heritage of the heritable estate in Scotland of deceased contributories, to the trustees of bankrupt or insolvent contributories and to the liabilities of husbands and wives respectively shall apply.

402. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or

Power of court to stay or restrain proceedings.

PART IX.
—*cont.*

Actions
stayed on
winding-up
order.

restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

403. Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Provisions
of Part IX
cumulative.

404. The provisions of this Part of this Act with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding up companies by the court, and the court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act:

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part of this Act.

Saving for
enactments
providing
for winding up
under former
Companies
Acts.

405. Nothing in this Part of this Act shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under the Companies Act, 1929, or any enactment repealed by that Act.

PART X.

COMPANIES INCORPORATED OUTSIDE GREAT BRITAIN.

Provisions as to Establishment of Place of Business in Great Britain.

Application
of ss. 407 to
414.

406. The next eight following sections shall apply to all oversea companies, that is to say, companies incorporated outside Great Britain which, after the commencement of this Act, establish a place of business within Great Britain, and companies incorporated outside Great Britain which have, before the commencement of this Act, established a place of business within Great Britain and continue to have an established place of business within Great Britain at the commencement of this Act.

Documents
&c., to be
delivered to
registrar by
oversea
companies
carrying on
business in
Great Britain.

407.—(1) Oversea companies which, after the commencement of this Act, establish a place of business within Great Britain shall, within one month of the establishment of the place of business, deliver to the registrar of companies for registration:—

- (a) a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the

company, and, if the instrument is not written in the English language, a certified translation thereof;

- (b) a list of the directors and secretary of the company containing the particulars mentioned in the next following subsection;
- (c) the names and addresses of some one or more persons resident in Great Britain authorised to accept on behalf of the company service of process and any notices required to be served on the company.

(2) The list referred to in paragraph (b) of the foregoing subsection shall contain the following particulars, that is to say,—

(a) with respect to each director,—

(i) in the case of an individual, his present Christian name and surname and any former Christian name or surname, his usual residential address, his nationality and his business occupation, if any, or if he has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships; and,

(ii) in the case of a corporation, its corporate name and registered or principal office;

(b) with respect to the secretary or, where there are joint secretaries, with respect to each of them,—

(i) in the case of an individual, his present Christian name and surname, any former Christian name and surname and his usual residential address; and

(ii) in the case of a corporation or a Scottish firm, its corporate or firm name and registered or principal office:

Provided that, where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be stated instead of the particulars mentioned in paragraph (b) of this subsection.

Paragraphs (b), (c) and (d) of subsection (9) of section two hundred of this Act shall apply for the purpose of the construction of references in this subsection to present and former Christian names and surnames as they apply for the purpose of the construction of such references in that section.

(3) Oversea companies, other than those mentioned in subsection (1) of this section, shall, if at the commencement of this Act they have not delivered to the registrar—

(a) in the case of a company mentioned in subsection (1) or (2) of section three hundred and forty-four

PART X.
—cont.

of the Companies Act, 1929, the documents and particulars specified in subsection (1) of that section;

- (b) in the case of a company not so mentioned, the documents and particulars specified in paragraphs (a), (b) and (c) of subsection (1) of section two hundred and seventy-four of the Companies (Consolidation) Act, 1908, as amended by the Companies (Particulars as to Directors) Act, 1917;

7 & 8 Geo. 5.
c. 28.

continue subject to the obligation to deliver those documents and particulars in accordance with the said Act of 1929 or the said Acts of 1908 and 1917, as the case may be.

Power of
oversea
company to
hold lands.

408. Where an oversea company has delivered to the registrar of companies—

- (a) in the case of a company to which subsection (1) of the last foregoing section applies, the documents and particulars therein mentioned;
- (b) in the case of a company mentioned in subsection (1) or (2) of section three hundred and forty-four of the Companies Act, 1929, the documents and particulars specified in subsection (1) of that section;
- (c) in the case of any other company, the documents and particulars specified in paragraphs (a), (b) and (c) of subsection (1) of section two hundred and seventy-four of the Companies (Consolidation) Act, 1908, as amended by the Companies (Particulars as to Directors) Act, 1917;

it shall have the same power to hold lands in the United Kingdom as if it were a company incorporated under this Act:

Provided that nothing in this section shall affect the power of a company to hold lands by virtue of registration in Northern Ireland.

Return to
be delivered
to registrar
by oversea
company
where
documents,
&c., altered.

409. If any alteration is made in—

- (a) the charter, statutes, or memorandum and articles of an oversea company or any such instrument as aforesaid; or
- (b) the directors or secretary of an oversea company or the particulars contained in the list of the directors and secretary; or
- (c) the names or addresses of the persons authorised to accept service on behalf of an oversea company;

the company shall, within the prescribed time, deliver to the registrar for registration a return containing the prescribed particulars of the alteration.

410.—(1) Every oversea company shall, in every calendar year, make out a balance sheet and profit and loss account and, if the company is a holding company, group accounts, in such form, and containing such particulars and including such documents, as under the provisions of this Act (subject, however, to any prescribed exceptions) it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting, and deliver copies of those documents to the registrar of companies:

PART X.
—cont
Accounts of
oversea
company

Provided that 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, need not comply with the foregoing provisions of this subsection if there is delivered to the registrar a certificate signed by a director and by the secretary of the company that, had section one hundred and twenty-nine of, and the Seventh Schedule to, this Act extended to Northern Ireland it would at the date of the certificate have been an exempt private company.

(2) If any such document as is mentioned in the foregoing subsection is not written in the English language, there shall be annexed to it a certified translation thereof.

411. Every oversea company shall—

- (a) in every prospectus inviting subscriptions for its shares or debentures in Great Britain state the country in which the company is incorporated; and
- (b) conspicuously exhibit on every place where it carries on business in Great Britain the name of the company and the country in which the company is incorporated; and
- (c) cause the name of the company and of the country in which the company is incorporated to be stated in legible characters in all bill-heads and letter paper, and in all notices and other official publications of the company; and
- (d) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible characters in every such prospectus as aforesaid and in all bill-heads, letter paper, notices and other official publications of the company in Great Britain, and to be affixed on every place where it carries on its business.

Obligation
to state
name of
oversea
company,
whether
limited, and
country where
incorporated.

412. Any process or notice required to be served on an oversea company shall be sufficiently served if addressed to any person whose name has been delivered to the registrar

Service on
oversea
company.

PART X.
—cont.

under the foregoing provisions of this Part of this Act and left at or sent by post to the address which has been so delivered: Provided that—

- (a) where any such company makes default in delivering to the registrar the name and address of a person resident in Great Britain who is authorised to accept on behalf of the company service of process or notices; or
- (b) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served;

a document may be served on the company by leaving it at or sending it by post to any place of business established by the company in Great Britain.

Office where documents to be filed.

413.—(1) Any document, which any oversea company is required to deliver to the registrar of companies, shall be delivered to the registrar at the registration office in England or Scotland according as the company has established a place of business in England or Scotland, and if it has established or establishes a place of business both in England and in Scotland, the document shall be delivered at the registration office both in England and in Scotland, and references to the registrar of companies in this Part of this Act shall be construed accordingly.

(2) If any oversea company ceases to have a place of business in either part of Great Britain, it shall forthwith give notice of the fact to the registrar of companies for that part, and as from the date on which notice is so given the obligation of the company to deliver any document to the registrar shall cease.

Penalties.

414. If any oversea company fails to comply with any of the foregoing provisions of this Part of this Act the company, and every officer or agent of the company who knowingly and wilfully authorises or permits the default, shall be liable to a fine not exceeding fifty pounds, or, in the case of a continuing offence, five pounds for every day during which the default continues.

Interpretation of ss. 407 to 414.

415. For the purposes of the foregoing provisions of this Part of this Act:—

the expression “certified” means certified in the prescribed manner to be a true copy or a correct translation;

the expression "director" in relation to a company includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;

the expression "place of business" includes a share transfer or share registration office;

the expression "prospectus" has the same meaning as when used in relation to a company incorporated under this Act;

the expression "secretary" includes any person occupying the position of secretary by whatever name called.

416. Where a company incorporated in the Channel Islands or the Isle of Man—

(a) after the commencement of this Act establishes a place of business in England or Scotland; or

(b) has before the commencement of this Act established and at the commencement of this Act continues to have a place of business in England or Scotland;

Special provisions as to delivery of documents by companies incorporated in Channel Islands or Isle of Man

all the provisions of this Act requiring documents to be forwarded or delivered to, or filed with, the registrar of companies (other than provisions requiring the payment of a fee in respect of the registration of a company) shall apply to the company in like manner as if it were a company registered in England or Scotland, as the case may be, and if the company establishes places of business both in England and in Scotland the said provisions shall so apply as if the company were registered both in England and in Scotland.

Prospectuses.

417.—(1) It shall not be lawful for any person to issue, circulate or distribute in Great Britain any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Great Britain, whether the company has or has not established, or when formed will or will not establish, a place of business in Great Britain unless the prospectus is dated and—

Dating of prospectus and particulars to be contained therein.

(a) contains particulars with respect to the following matters:—

(i) the instrument constituting or defining the constitution of the company;

(ii) the enactments, or provisions having the force of an enactment, by or under which the incorporation of the company was effected;

PART X
—cont.

(iii) an address in Great Britain where the said instrument, enactments or provisions, or copies thereof, and if the same are in a foreign language a translation thereof certified in the prescribed manner, can be inspected;

(iv) the date on which and the country in which the company was incorporated;

(v) whether the company has established a place of business in Great Britain, and, if so, the address of its principal office in Great Britain;

(b) subject to the provisions of this section, states the matters specified in Part I of the Fourth Schedule to this Act and sets out the reports specified in Part II of that Schedule, subject always to the provisions contained in Part III of that Schedule:

Provided that the provisions of sub-paragraphs (i), (ii) and (iii) of paragraph (a) of this subsection shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business, and, in the application of Part I of the Fourth Schedule for the purposes of this subsection, paragraph 2 thereof shall have effect with the substitution, for the reference to the articles, of a reference to the constitution of the company.

(2) Any condition requiring or binding an applicant for shares or debentures to waive compliance with any requirement imposed by virtue of paragraph (a) or (b) of the foregoing subsection, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

(3) It shall not be lawful for any person to issue to any person in Great Britain a form of application for shares in or debentures of such a company or intended company as is mentioned in subsection (1) of this section unless the form is issued with a prospectus which complies with this Part of this Act and the issue whereof in Great Britain does not contravene the provisions of section four hundred and nineteen of this Act:

Provided that this subsection shall not apply if it is shown that the form of application was issued in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

(4) In the event of non-compliance with or contravention of any of the requirements imposed by paragraphs (a) and (b) of subsection (1) of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

(a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or

- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or
- (c) the non-compliance or contravention was in respect of matters which, in the opinion of the court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in paragraph 16 of the Fourth Schedule to this Act, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(5) This section—

- (a) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; and
- (b) except in so far as it requires a prospectus to be dated, shall not apply to the issue of a prospectus 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;

but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act, apart from this section.

418.—(1) Where—

- (a) it is proposed to offer to the public by a prospectus issued generally any shares in or debentures of a company incorporated or to be incorporated outside Great Britain, whether the company has or has not established, or when formed will or will not establish, a place of business in Great Britain; 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;

Exclusion of foregoing section and relaxation of Fourth Schedule in case of certain prospectuses.

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

PART X.
—cont.

(as stated in the request) as to the size and other circumstances of the issue of shares or debentures and as to any limitation on the number and class of persons to whom the offer is to be made, compliance with the requirements of the Fourth Schedule to this Act would be unduly burdensome.

(2) 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 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 this Act; and
- (b) except in so far as it requires a prospectus to be dated, the last foregoing section shall not apply to any issue, after the permission applied for is given, of a prospectus or form of application relating to the shares or debentures.

Provisions
as to expert's
consent, and
allotment.

419.—(1) It shall not be lawful for any person to issue, circulate or distribute in Great Britain any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Great Britain, whether the company has or has not established, or when formed will or will not establish, a place of business in Great Britain,—

- (a) if, where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery 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 the prospectus 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 sections fifty and fifty-one of this Act so far as applicable.

(2) In this section the expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him, and for the purposes of this section a statement shall be deemed to be included in a 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.

420.—(1) It shall not be lawful for any person to issue, circulate or distribute in Great Britain any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Great Britain, whether the company has or has not established, or when formed will or will not establish, a place of business in Great Britain, unless before the issue, circulation or distribution of the prospectus in Great Britain, a copy thereof certified by the chairman and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the registrar of companies, and the prospectus states on the face of it that a copy has been so delivered, and there is endorsed on or attached to the copy—

PART X.
—cont.
Registration
of prospectus.

- (a) any consent to the issue of the prospectus required by the last foregoing section;
- (b) a copy of any contract required by paragraph 14 of the Fourth Schedule to this Act to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof or, if in the case of a prospectus deemed by virtue of a certificate granted under section four hundred and eighteen of this Act to comply with the requirements of that Schedule, a contract or a copy thereof or a memorandum of a contract is required to be available for inspection in connection with the application under that section to the stock exchange in question, a copy or, as the case may be, a memorandum of that contract; and
- (c) 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 paragraph 29 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(2) The references in paragraph (b) of the foregoing subsection to the copy of a contract required thereby to be endorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a foreign language, be taken as references to a copy of a translation of the contract 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, and the reference to a copy of a contract required to be available for inspection shall include a reference to a copy of a translation thereof or a copy embodying a translation of parts thereof.

Y*

PART X.
—*cont.*
Penalty for
contravention
of four
foregoing
sections.

421. Any person who is knowingly responsible for the issue, circulation or distribution of a prospectus, or for the issue of a form of application for shares or debentures, in contravention of any of the provisions of the four last foregoing sections shall be liable to a fine not exceeding five hundred pounds.

Civil liability
for mis-
statements in
prospectus.

422. Section forty-three of this Act shall extend to every prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Great Britain, whether the company has or has not established, or when formed will or will not establish, a place of business in Great Britain, with the substitution, for references to section forty of this Act, of references to section four hundred and nineteen thereof.

Interpretation
of provisions
as to
prospectuses.

423.—(1) Where any document by which any shares in or debentures of a company incorporated outside Great Britain are offered for sale to the public would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section forty-five of this Act to be a prospectus issued by the company, that document shall be deemed to be, for the purpose of this Part of this Act, a prospectus issued by the company.

(2) An offer of shares or debentures for subscription or sale to any person whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this Part of this Act.

(3) In this Part of this Act the expressions "prospectus", "shares" and "debentures" have the same meanings as when used in relation to a company incorporated under this Act.

PART XI.

GENERAL PROVISIONS AS TO REGISTRATION.

Registration
offices in
England and
Scotland.

424.—(1) For the purposes of the registration of companies under this Act, there shall be offices in England and Scotland at such places as the Board of Trade think fit.

(2) The Board of Trade may appoint such registrars, assistant registrars, clerks and servants as the Board think necessary for the registration of companies under this Act, and may make regulations with respect to their duties, and may remove any persons so appointed.

(3) The salaries of the persons appointed under this section shall be fixed by the Board of Trade with the concurrence of the Treasury, and shall be paid out of money provided by Parliament.

(4) The Board of Trade may require that the office of the registrar of the court exercising in respect of the winding up of companies the stannaries jurisdiction shall be one of the offices for the registration of companies within that jurisdiction.

(5) The Board may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(6) Whenever any act is by this Act directed to be done to or by the registrar of companies, it shall, until the Board of Trade otherwise direct, be done to or by the existing registrar of companies in England or Scotland, as the case may be, or in his absence to or by such person as the Board may for the time being authorise:

Provided that, in the event of the Board altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Board may appoint.

425.—(1) In respect of the several matters mentioned in Fees. the first column of the table set out in Part I of the Twelfth Schedule to this Act, there shall, subject to the limitations imposed by Part II of that Schedule, be paid to the registrar the several fees specified in the second column of that table:

Provided that no fees shall be charged in respect of the registration in pursuance of Part VIII of this Act of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some other Act of Parliament or by letters patent.

(2) All fees paid to the registrar in pursuance of this Act shall be paid into the Exchequer.

426.—(1) Any person may—

(a) inspect the documents kept by the registrar of companies, on payment of such fee as may be appointed by the Board of Trade, not exceeding one shilling for each inspection;

Inspection,
production
and evidence
of documents
kept by
registrar.

(b) require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar, on payment for the certificate, certified copy or extract of such fees as the Board of Trade

PART XI.
—cont.

may appoint, not exceeding five shillings for a certificate of incorporation and not exceeding sixpence for each folio of a certified copy or extract:

Provided that,—

(i) in relation to documents delivered to the registrar with a prospectus in pursuance of subparagraph (i) of paragraph (b) of subsection (1) of section forty-one of this Act, the rights conferred by this subsection shall be exercisable only during the fourteen days beginning with the date of publication of the prospectus or with the permission of the Board of Trade, and in relation to documents so delivered in pursuance of paragraph (b) of subsection (1) of section four hundred and twenty of this Act the said rights shall be exercisable only during the fourteen days beginning with the date of the prospectus or with the permission of the Board of Trade; and

(ii) the right conferred by paragraph (a) of this subsection shall not extend to any copy sent to the registrar under section three hundred and seventy-two of this Act of a statement as to the affairs of a company or of any comments of the receiver or his successor or a continuing receiver or manager 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 conferred by paragraph (b) of this subsection shall be similarly limited.

(2) No process for compelling the production of any document kept by the registrar shall issue from any court except with the leave of that court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the court.

(3) A copy of, or extract from, any document kept and registered at any of the offices for the registration of companies in England or Scotland, certified to be a true copy under the hand of the registrar (whose official position it shall not be necessary to prove), shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

(4) Any person untruthfully stating himself in writing for the purposes of proviso (ii) to subsection (1) of this section

to be a member or creditor of a company shall be liable to a fine not exceeding fifty pounds.

PART XI.
—cont.

(5) In the application of this section to Scotland, as in its application to England, a folio shall be deemed to consist of seventy-two words.

427.—(1) Where a company has been dissolved, whether under this Act or otherwise, the registrar may, at any time after the expiration of two years from the date of the dissolution, direct that any documents in his custody relating to that company may be removed to the Public Record Office, and documents in respect of which any such direction is given shall be disposed of in accordance with the provisions of the Public Record Office Acts, 1838 to 1898, and the rules made thereunder.

Power of registrar in England to direct removal of documents to Public Record Office.

(2) In this section the expression "company" includes a company provisionally or completely registered under the Act 7 and 8 Victoria chapter one hundred and ten.

(3) This section shall not extend to Scotland.

428.—(1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver or send to the registrar of companies any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the court may, on an application made to the court by any member or creditor of the company or by the registrar of companies, make an order directing the company and any officer thereof to make good the default within such time as may be specified in the order.

Enforcement of duty of company to make returns to registrar.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid.

PART XII.

MISCELLANEOUS PROVISIONS WITH RESPECT TO BANKING AND INSURANCE COMPANIES, AND CERTAIN SOCIETIES, PARTNERSHIPS AND UNREGISTERED COMPANIES.

Provisions relating to Banking and Insurance Companies.

429. No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of some other Act of Parliament, or of letters patent.

Prohibition of banking partnerships with more than ten members.

PART XII.

—cont.

On registration of banking company with limited liability, notice to be given to customers.

430.—(1) Where a banking company which was in existence on the seventh day of August, eighteen hundred and sixty-two, proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address.

(2) If the company omits to give the notice required by this section, then, as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Liability of bank of issue unlimited in respect of notes.

431.—(1) A bank of issue registered under this Act as a limited company shall not be entitled to limited liability in respect of its notes, and the members thereof shall be liable in respect of its notes in the same manner as if it had been registered as unlimited:

Provided that, if, in the event of the company being wound up, the general assets are insufficient to satisfy the claims of both the note-holders and the general creditors, then the members, after satisfying the remaining demands of the note-holders, shall be liable to contribute towards payment of the debts of the general creditors a sum equal to the amount received by the note-holders out of the general assets.

(2) For the purposes of this section, the expression "the general assets" means the funds available for payment of the general creditor as well as the note-holder.

(3) Any bank of issue registered under this Act as a limited company may state on its notes that the limited liability does not extend to its notes, and that the members of the company are liable in respect of its notes in the same manner as if it had been registered as an unlimited company.

Privileges of banks making annual return.

432.—(1) Where a company carrying on the business of bankers has duly forwarded to the registrar of companies the annual return required by section one hundred and twenty-four of this Act and has added thereto a statement of the names of the several places where it carries on business, the company—

(a) shall not be required to furnish to the Commissioners of Inland Revenue any returns under the provisions of the Country Bankers Act, 1826, the Bankers (Scotland) Act, 1826, section twenty-one of the Bank Charter Act, 1844, or section thirteen of the Bank Notes (Scotland) Act, 1845; and

7 Geo. 4. c. 46.
7 Geo. 4. c. 67.
7 & 8 Vict
c. 32.
8 & 9 Vict.
c. 38.

(b) shall be deemed to be a "bank" and "bankers" within the meaning of the Bankers' Books Evidence Act, 1879.

PART XII.
—cont.
42 & 43 Vict.
c. 11.

(2) The fact of the said annual return and statement having been duly forwarded may be proved in any legal proceedings by the certificate of the registrar.

433.—(1) Every company, being a limited banking company or an insurance company or a deposit, provident, or benefit society, shall, before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in the form set out in the Thirteenth Schedule to this Act, or as near thereto as circumstances admit.

Banking and certain other companies to publish periodical statement.

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of a sum not exceeding sixpence.

(4) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

(5) For the purposes of this Act a company which carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

(6) This section shall not apply to any assurance company to which the provisions of the Assurance Companies Act, 1909, as to the accounts and balance sheet to be prepared annually and deposited by such a company apply, if the company complies with those provisions.

Prohibition of Partnerships with more than twenty Members.

434.—(1) No company, association, or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business (other than the business of banking) that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other Act of Parliament, or of letters patent, or is a company engaged in working mines within the stannaries and subject to the jurisdiction of the court exercising the stannaries jurisdiction.

Prohibition of partnerships with more than twenty members.

PART XII.

—cont.

2 & 3 Geo. 6.
c. 57.

(2) This section shall not apply in relation to any body of persons for the time being approved for the purposes of Part I of the War Risks Insurance Act, 1939, by the Minister of Transport, being a body the objects of which are or include the carrying on of business by way of the re-insurance of risks which may be re-insured under any agreement for the purpose mentioned in paragraph (b) of subsection (1) of section one of that Act.

Application of certain Provisions of this Act to Unregistered Companies

Application of certain provisions of this Act to unregistered companies.

435.—(1) The provisions of this Act specified in the second column of the Fourteenth 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 this Act, but subject to any limitations mentioned in relation to those provisions respectively in the third column of that Schedule and to such adaptations and modifications (if any) as may be specified by regulations made by the Board of Trade.

(2) The said provisions shall not apply by virtue of this section to any of the following, that is to say:—

- (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.

(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

7 Will. 4 &
1 Vict. c. 73.

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.

(5) The powers to make regulations conferred by this section and the Fourteenth Schedule to this Act on the Board of Trade shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART XIII.

GENERAL

Form of Registers, &c.

436.—(1) Any register, index, minute book or book of account required by this Act to be kept by a company may be kept either by making entries in bound books or by recording the matters in question in any other manner. Form of registers, &c

(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.

Service of Documents.

437.—(1) A document may be served on a company by leaving it at or sending it by post to the registered office of the company. Service of documents on a company.

(2) Where a company registered in Scotland carries on business in England, the process of any court in England may be served on the company by leaving it at or sending it by post to the principal place of business of the company in England, addressed to the manager or other head officer in England of the company.

(3) Where process is served on a company under subsection (2) of this section the person issuing out the process shall send a copy thereof by post to the registered office of the company.

Offences.

438. If any person in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of this Act specified in the Fifteenth Schedule hereto, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction Penalty for false statements.

PART XIII.
—*cont.*

in Scotland on indictment to imprisonment for a term not exceeding two years, with or without hard labour, and be liable on summary conviction in England or Scotland to imprisonment for a term not exceeding four months, with or without hard labour, and in either case to a fine in lieu of or in addition to such imprisonment as aforesaid:

Provided that—

- (a) the fine imposed on summary conviction shall not exceed one hundred pounds;
- (b) nothing in this section shall affect the provisions of the Perjury Act, 1911, or the False Oaths (Scotland) Act, 1933.

1 & 2 Geo. 5.
c. 6.
23 & 24 Geo. 5.
c. 20.

Penalty for
improper use
of word
“ limited ”.

439. If any person or persons trade or carry on business under any name or title of which “ limited ”, or any contraction or imitation of that word, is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used.

Provision
with respect
to default
fines and
meaning of
“ officer in
default ”.

440.—(1) Where by any enactment in this Act it is provided that a company and every officer of the company who is in default shall be liable to a default fine, the company and every such officer shall, for every day during which the default, refusal or contravention continues, be liable to a fine not exceeding such amount as is specified in the said enactment, or, if the amount of the fine is not so specified, to a fine not exceeding five pounds.

(2) For the purpose of any enactment in this Act which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression “ officer who is in default ” means any officer of the company who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment.

Production
and
inspection of
books where
offence
suspected.

441.—(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;

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—

PART XIII.
—cont.

- (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.

(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.

442.—(1) All offences under this Act made punishable by any fine may be prosecuted under the Summary Jurisdiction Acts, and proceedings under those Acts in respect of any such offence may, notwithstanding anything to the contrary therein, 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: Provisions as to summary proceedings

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.

PART XIII.
—cont.

(4) Subsection (1) of this section, so far as it relates to the time within which proceedings may be taken, and subsections (2) and (3) thereof shall apply to proceedings in respect of offences under the Companies Act, 1929, or the Companies Act, 1947, that may be prosecuted under the Summary Jurisdiction Acts as it applies to proceedings in respect of the offences mentioned in the said subsection (1):

Provided that this subsection shall not have effect in relation to any proceedings if the time allowed under the said Acts apart from this section for taking them had already expired before the commencement of this Act.

Proceedings
on indictment
in Scotland
against bodies
corporate.

443.—(1) In any proceedings on indictment against a body corporate for an offence against 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 acknowledgment 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.

(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.

PART XIII.
—cont.

(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. 50 & 51 Vict.
c. 35.

(7) If on the application of the procurator fiscal, a sheriff is satisfied that there is reasonable ground for suspecting that an offence against 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) The foregoing provisions of this section shall apply to offences against the Companies Act, 1929, or the Companies Act, 1947, as they apply to offences against this Act.

(10) This section shall extend to Scotland only.

444. The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit Application
of fines.

PART XIII.
—cont

the fine is recovered, and subject to any such direction all fines under this Act shall, notwithstanding anything in any other Act, be paid into the Exchequer.

Saving as
to private
prosecutors

445. Nothing in this Act relating to the institution of criminal proceedings by the Director of Public Prosecutions shall be taken to preclude any person from instituting or carrying on any such proceedings.

Saving for
privileged
communica-
tions.

446. Where proceedings are instituted under this Act against any person by the Director of Public Prosecutions or by or on behalf of the Lord Advocate, nothing in this Act shall be taken to require any person who has acted as solicitor for the defendant to disclose any privileged communication made to him in that capacity.

Legal Proceedings.

Costs in
actions by
certain
limited
companies.

447. Where a limited company is plaintiff or pursuer in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of
court to grant
relief in
certain cases.

448.—(1) If in any proceeding for negligence, default, breach of duty or breach of trust against an officer of a company or a person employed by a company as auditor (whether he is or is not an officer of the company) it appears to the court hearing the case that that officer or person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think fit.

(2) Where any such officer or person aforesaid has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief, and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) Where any case to which subsection (1) of this section applies is being tried by a judge with a jury, the judge, after

hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

PART XIII
—cont

449. Orders made by the High Court under this Act may be enforced in the same manner as orders made in an action pending therein. Power to enforce orders.

450.—(1) In the case of a company subject to the stannaries jurisdiction, the court exercising the stannaries jurisdiction shall have and exercise the like jurisdiction and powers, as well on the common law as on the equity side thereof, as the Court of the Vice-Warden of the stannaries possessed before the commencement of the Stannaries Court (Abolition) Act, 1896, by custom, usage or statute in the case of unincorporated companies, but only so far as is consistent with the provisions of this Act and with the constitution of companies as prescribed or required by this Act. Jurisdiction of stannaries court.

(2) For the purpose of giving fuller effect to that jurisdiction, all process issuing out of the said court, and all orders, rules, demands, notices, warrants, and summonses required or authorised by the practice of the court to be served on any company, whether registered or not registered, or on any member or contributory thereof, or on any officer, agent or servant thereof, may be served in any part of England without any special order of the judge for that purpose, or by such special order may be served in any part of the British Islands other than Eire, on such terms and conditions as the court may think fit:

Provided that no such service of process out of the limits of the stannaries in any suit or plaint on the common law side of the court shall be effected without the special order of the judge made on a statement of the nature and object of the suit or plaint.

(3) All decrees, orders and judgments of the said court may be enforced in the same manner in which decrees, orders and judgments of the Court of the Vice-Warden of the stannaries could before its abolition have been by law enforced, whether within or beyond the stannaries.

General Provisions as to Board of Trade.

451. The Board of Trade shall cause a general annual report of matters within this Act to be prepared and laid before both Houses of Parliament. Annual report by Board of Trade

PART XIII.

—*cont.*

Authentication
of documents
issued by
Board of
Trade.

Orders and
certificates of
Board to be
evidence.

Power to
alter tables
and forms.

452. Any approval, sanction or licence or revocation of licence which under this Act may be given or made by the Board of Trade may be under the hand of a secretary or assistant secretary of the Board, or of any person authorised in that behalf by the President of the Board.

453.—(1) All documents purporting to be orders or certificates made or issued by the Board of Trade for the purposes of this Act and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence and deemed to be such orders or certificates without further proof, unless the contrary is shown.

(2) A certificate signed by the President of the Board of Trade that any order made, certificate issued or act done is the order, certificate or act of the Board shall be conclusive evidence of the fact so certified.

454.—(1) The Board of Trade shall have power by regulations made by statutory instrument to alter or add to the requirements of 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 of those of the Eighth Schedule to this Act; and any reference in this Act to the said Eighth 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 Board of Trade may by regulations made by statutory instrument—

- (a) alter Table A, the Twelfth Schedule to this Act so that it does not increase the amount of fees payable to the registrar under that Schedule, and the form in the Thirteenth Schedule to this Act; and
- (b) alter or add to Tables B, C, D, and E in the First Schedule to this Act and the forms in the Second Schedule and Part II of the Sixth Schedule to this Act;

but no alteration made by the Board of Trade in Table A shall affect any company registered before the alteration, or repeal as respects that company any portion of that Table.

(3) No regulations shall be made under subsection (1) of this section so as to render more onerous the requirements therein referred to, unless a draft of the instrument containing the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.

(4) A statutory instrument containing regulations made under this section, not being regulations to which the last foregoing subsection applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART XIII.
—cont

Supplemental.

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

Interpretation.

“ accounts ” includes a company’s group accounts, whether prepared in the form of accounts or not;

“ agent ” does not include a person’s counsel acting as such;

“ annual return ” means the return required to be made, in the case of a company having a share capital, under section one hundred and twenty-four, and, in the case of a company not having a share capital, under section one hundred and twenty-five, of this Act;

“ articles ” means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in Table B in the Schedule annexed to the Joint Stock Companies Act, 1856, or in Table A in the First Schedule annexed to the Companies Act, 1862, or in that Table as altered in pursuance of section seventy-one of the last-mentioned Act, or in Table A in the First Schedule to the Companies (Consolidation) Act, 1908, or in that Table as altered in pursuance of section one hundred and eighteen of the last-mentioned Act, or in Table A in the First Schedule to the Companies Act, 1929, or in Table A in the First Schedule to this Act;

19 & 20 Vict.
c. 47

“ bank holiday ” means a day which is a bank holiday under the Bank Holidays Act, 1871;

34 & 35 Vict
c. 17.

“ book and paper ” and “ book or paper ” include accounts, deeds, writings, and documents;

“ company ” means a company formed and registered under this Act or an existing company;

“ company limited by guarantee ” and “ company limited by shares ” have the meanings assigned to them respectively by subsection (2) of section one of this Act;

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—*cont.*

- “ company within the stannaries ” means a company engaged in or formed for working mines within the stannaries;
- “ contributory ” has the meaning assigned to it by section two hundred and thirteen of this Act;
- “ the court ”, used in relation to a company, means the court having jurisdiction to wind up the company;
- “ the court exercising the stannaries jurisdiction ”, used in relation to any proceedings, means the county court in which the jurisdiction formerly exercised by the court of the vice-warden of the stannaries in respect of those proceedings is for the time being vested;
- “ creditors’ voluntary winding up ” has the meaning assigned to it by subsection (4) of section two hundred and eighty-three of this Act;
- “ debenture ” includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not;
- “ director ” includes any person occupying the position of director by whatever name called;
- “ document ” includes summons, notice, order, and other legal process, and registers;
- “ dominion register ” has the meaning assigned to it by subsection (1) of section one hundred and nineteen of this Act;
- “ exempt private company ” means an exempt private company as defined by subsection (4) of section one hundred and twenty-nine of this Act;
- “ existing company ” means a company formed and registered under the Joint Stock Companies Acts, the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929, but does not include a company registered under the said Acts, the said Act of 1862 or the said Act of 1908 in Northern Ireland or Eire;
- “ 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 Gazette ” means, as respects companies registered in England, the London Gazette and as respects companies registered in Scotland, the Edinburgh Gazette;

- “ general rules ” means general rules made under section three hundred and sixty-five of this Act, and includes forms;
- “ group accounts ” has the meaning assigned to it by subsection (1) of section one hundred and fifty of this Act;
- “ holding company ” means a holding company as defined by section one hundred and fifty-four of this Act;
- “ issued generally ” means, in relation to a prospectus, issued to persons who are not existing members or debenture holders of the company;
- “ Joint Stock Companies Acts ” means the Joint Stock Companies Act, 1856, the Joint Stock Companies Acts, 1856, 1857, the Joint Stock Banking Companies Act, 1857, and the Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability, or any one or more of those Acts, as the case may require, but does not include the Act 7 and 8 Victoria, chapter one hundred and ten; 20 & 21 Vict. c. 14.
20 & 21 Vict. c. 49.
21 & 22 Vict. c. 91.
- “ members’ voluntary winding up ” has the meaning assigned to it by subsection (4) of section two hundred and eighty-three of this Act;
- “ the minimum subscription ” has the meaning assigned to it by subsection (2) of section forty-seven of this Act;
- “ memorandum ” means the memorandum of association of a company, as originally framed or as altered in pursuance of any enactment;
- “ officer ”, in relation to a body corporate, includes a director, manager or secretary;
- “ prescribed ” means, as respects the provisions of this Act relating to the winding up of companies, prescribed by general rules, and as respects the other provisions of this Act, prescribed by statutory instrument made by the Board of Trade;
- “ private company ” has the meaning assigned to it by subsection (1) of section twenty-eight of this Act;
- “ prospectus ” means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company;
- “ real ” and “ personal ”, as respects Scotland, mean respectively heritable and moveable;
- “ 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; 2 & 3 Geo. 6. c. 16.

PART XIII.
—cont.

- “ the registrar of companies ”, or when used in relation to registration of companies, “ the registrar ”, means the registrar or other officer performing under this Act the duty of registration of companies in England or Scotland, or in the stannaries, as the case requires;
- “ resolution for reducing share capital ” has the meaning assigned to it by subsection (2) of section sixty-six of this Act;
- “ a resolution for voluntary winding up ” has the meaning assigned to it by subsection (2) of section two hundred and seventy-eight of this Act;
- “ share ” means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;
- “ share warrant ” has the meaning assigned to it by subsection (2) of section eighty-three of this Act;
- “ statutory meeting ” means the meeting required to be held by subsection (1) of section one hundred and thirty of this Act;
- “ statutory report ” has the meaning assigned to it by subsection (2) of section one hundred and thirty of this Act;
- “ subsidiary ” means a subsidiary as defined by section one hundred and fifty-four of this Act;
- “ Table A ” means Table A in the First Schedule to this Act;
- “ the time of the opening of the subscription lists ” has the meaning assigned to it by subsection (1) of section fifty of this Act;
- “ unlimited company ” has the meaning assigned to it by subsection (2) of section one of this Act.

(2) A person shall not be deemed to be within the meaning of any provision in this Act a person in accordance with whose directions or instructions the directors of a company are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.

(3) References in 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.

(4) Any such provision of this Act overriding or interpreting a company's articles as is a re-enacted provision of the Companies Act, 1947, shall, except as provided by this Act, apply

in relation to articles in force at the commencement of this Act, 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.

PART XIII
—cont.

456. The Assurance Companies Acts, 1909 to 1946, sections two and thirteen of the Prevention of Fraud (Investments) Act, 1939, and sections fifty-eight, one hundred and fifteen and one hundred and seventeen of the Companies Act, 1947, shall have effect subject to the amendments specified in the Sixteenth Schedule to this Act. Amendments of other Acts.

457. Notwithstanding subsection (1) of section thirty-eight of the Interpretation Act, 1889 (which provides that where an Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted),— Construction of references in other Acts to subsidiary companies as defined by, and companies registered under, the Companies Act, 1929. 52 & 53 Vict. c. 63.

(a) references, in whatever terms, in any Act other than this Act to a subsidiary company as defined by the Companies Act, 1929, shall be construed in like manner as if this Act had not passed;

(b) references in any Act other than this Act to a company formed and registered, or registered, under the Companies Act, 1929, shall, unless the context otherwise requires, be construed as references to a company formed and registered, or registered, under that Act or this Act.

458.—(1) Paragraph (d) of subsection (1) of section ten of the Companies Act, 1907, paragraph (d) of subsection (1) of section ninety-three of the Companies (Consolidation) Act, 1908, and paragraph (d) of subsection (2) of section seventy-nine of the Companies Act, 1929 (by virtue whereof charges created on land by a company required registration under those Acts respectively), shall be deemed never to have applied to a charge for any rent or other periodical sum issuing out of the land. Effect of provisions of former Companies Acts as to registration of charges on land and keeping books of account. 7 Edw. 7. c. 50.

(2) Subsection (1) of section two hundred and seventy-four of the Companies Act, 1929 (which penalised the persons responsible where proper books of account were not kept by a company throughout the two years immediately preceding the commencement of the winding up) shall be deemed always to have had effect—

(a) as if after the words " the period of two years immediately preceding the commencement of the winding-up " there had been inserted the words " or the

PART XIII.
—*cont.*

period between the incorporation of the company and the commencement of the winding up, whichever is the shorter"; and

- (b) 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 had been substituted the word " and ".

Repeal and
savings.

459.—(1) The enactments mentioned in the first and second columns of Part I of the Seventeenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Part of that Schedule, the provisions of the Companies Act, 1947, mentioned in the first column of Part II of that Schedule are, so far as they are not repealed by the foregoing provisions of this subsection, hereby repealed to the extent specified in the second column of that Part of that Schedule, and paragraph (2) of Regulation three of the Defence (Companies) Regulations, 1940, is hereby revoked.

(2) Nothing in this Act shall affect any Order in Council, order, rule, regulation, appointment, conveyance, mortgage, deed or agreement made, resolution passed, direction given, proceeding taken, instrument issued or thing done under any former enactment relating to companies, but any such Order in Council, order, rule, regulation, appointment, conveyance, mortgage, deed, agreement, resolution, direction, proceeding, instrument or thing shall, if in force at the commencement of this Act, continue in force, and so far as it could have been made, passed, given, taken, issued or done under this Act shall have effect as if made, passed, given, taken, issued or done under this Act:

Provided that this subsection shall not apply to any such Order in Council, order or rule as is mentioned in any of the three next following subsections or to any regulation having effect by virtue of subsection (2) of section one hundred and twenty of the Companies Act, 1947.

(3) Any Order in Council under paragraph (e) of the proviso to subsection (1) of section fifty-four of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were an order of the Treasury under paragraph (e) of the proviso to subsection (1) of section sixty-five of this Act.

(4) Any order prescribing fees for the purposes of Part III of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were regulations under sections ninety-eight and one hundred and two of this Act.

(5) Any rule made with respect to procedure in the Court of Session or in a sheriff court (including appeals from the sheriff court), or with respect to costs and fees, under section three hundred and seventy-four of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were contained in an Act of Sederunt under section sixteen of the Administration of Justice (Scotland) Act, 1933, or under section forty of the Sheriff Courts (Scotland) Act, 1907, as the case may be. 7 Edw. 7. c. 51.

(6) Nothing in this Act shall affect the operation of section one hundred and thirty-seven of the Companies Act, 1929, as respects inspectors appointed before, or to continue an inspection begun by inspectors appointed before, the commencement of this Act, and section one hundred and seventy-one of this Act shall apply to a report of inspectors appointed under the said section one hundred and thirty-seven as it applies to a report of inspectors appointed under section one hundred and sixty-four of this Act.

(7) An order made on an application under section two hundred and seventeen or subsection (4) of section two hundred and seventy-five of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were an order under section one hundred and eighty-eight of this Act.

(8) Nothing in this Act shall affect any prosecution by a liquidator instituted or ordered by the court to be instituted under section two hundred and seventy-seven of the Companies Act, 1929, and the Board of Trade shall have the same power of directing how any costs and expenses properly incurred by a liquidator in any such prosecution are to be defrayed as they would have had if this Act had not passed.

(9) Nothing in this Act shall affect—

- (a) the power of a company to alter its memorandum under the provisions of section three of the Mortgage Debenture Act, 1865; 28 & 29 Vict. c. 78.
- (b) the provisions of section five of the Trade Union Act, 1871 (which avoids the registration of a trade union under the enactments relating to companies); 34 & 35 Vict. c. 31.
- (c) the provisions of subsection (4) of section fifty-four of the Finance Act, 1940 (which provides for payment in priority to other debts of duty payable by a company in respect of assets passing on a death by virtue of section forty-six of that Act), of any other enactment (not being one expressly repealed by this Act) relating to preferential payments or of regulations so relating having effect under any enactment; 3 & 4 Geo. 6. c. 29.

PART XIII.

—cont.

10 & 11 Geo. 6.
c. 14.

- (d) the provisions of subsection (2) of section eight of the Exchange Control Act, 1947 (which invalidates the subscription of the memorandum of association of a company by or on behalf of a person resident outside the scheduled territories as defined for the purposes of that Act, unless the subscription is with the permission of the Treasury);
- (e) the provisions of any Regulation of the Defence (Recovery of Fines) Regulations, 1942, or the provisions of any other Defence Regulation so far as not expressly revoked by this Act;
- (f) the enactments set out in the Eighteenth Schedule to this Act, being the enactments continued in force by section two hundred and five of the Companies Act, 1862;

or be construed as repealing any provision of the Assurance Companies Acts, 1909 to 1946:

Provided that, notwithstanding subsection (1) of section thirty-eight of the Interpretation Act, 1889, references in any such enactment or regulations as are mentioned in paragraph (c) of this subsection to provisions of section seventy-eight, two hundred and sixty-four or two hundred and ninety-eight of the Companies Act, 1929, shall be construed as referring both to those provisions and to the corresponding provisions of this Act.

(10) Subject to the provisions of the last foregoing subsection, any document referring to any former enactment relating to companies shall be construed as referring to the corresponding enactment of this Act.

(11) Any person appointed to any office under or by virtue of any former enactment relating to companies shall be deemed to have been appointed to that office under or by virtue of this Act.

(12) Any register kept under any former enactment relating to companies shall be deemed part of the register to be kept under the corresponding provisions of this Act.

(13) All funds and accounts constituted under this Act shall be deemed to be in continuation of the corresponding funds and accounts constituted under the former enactments relating to companies.

(14) Nothing in this Act shall affect—

- (a) the incorporation of any company registered under any enactment hereby repealed;
- (b) Table B in the Schedule annexed to the Joint Stock Companies Act, 1856, or any part thereof, so far as the same applies to any company existing at the commencement of this Act;

- (c) Table A in the First Schedule annexed to the Companies Act, 1862, or any part thereof, either as originally contained in that schedule or as altered in pursuance of section seventy-one of that Act, so far as the same applies to any company existing at the commencement of this Act;
- (d) Table A in the First Schedule to the Companies (Consolidation) Act, 1908, or any part thereof, either as originally contained in that Schedule or as altered in pursuance of section one hundred and eighteen of that Act, so far as the same applies to any company existing at the commencement of this Act;
- (e) Table A in the First Schedule to the Companies Act, 1929, or any part thereof, so far as the same applies to any company existing at the commencement of this Act.

(15) Where any offence, being an offence for the continuance of which a penalty was provided, has been committed under any former enactment relating to companies, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provisions of this Act.

(16) Save to the extent to which it is otherwise provided by subsection (9) of this section, the mention of particular matters in this section shall be without prejudice to the general application of section thirty-eight of the Interpretation Act, 1889, with respect to the effect of repeals.

(17) In this section the expression "former enactment relating to companies" means the Companies Act, 1929, and any enactment repealed by that Act or by the Companies (Consolidation) Act, 1908.

460.—(1) The provisions of this Act with respect to winding up (other than sections three hundred and thirty-six, three hundred and fifty-six and three hundred and twenty-four as applied for the purposes of the last-mentioned section and subsection (2) of this section) shall not apply to any company of which the winding up commenced before the first day of November, nineteen hundred and twenty-nine, but every such company shall be wound up in the same manner and with the same incidents as if the Companies Act, 1929, and this Act (apart from the enactments aforesaid) had not passed, and, for the purposes of the winding up, the Act or Acts under which the winding up commenced shall be deemed to remain in full force.

Provisions as to winding-up proceedings commenced before 1st November, 1929.

(2) A copy of every order staying the proceedings in a winding up commenced as aforesaid shall forthwith be forwarded by the company, or otherwise as may be prescribed,

PART XIII.
—cont.Application
to Northern
Ireland.

to the registrar of companies, who shall make a minute of the order in his books relating to the company.

461.—(1) Nothing in this Act, except the provisions thereof which relate expressly to companies registered or incorporated in Northern Ireland or outside Great Britain, shall apply to or in relation to companies registered or incorporated in Northern Ireland.

(2) Nothing in this Act, except where it is expressly provided to the contrary, shall affect the law in force in Northern Ireland at the commencement of this Act.

Short title
and com-
mencement.

462.—(1) This Act may be cited as the Companies Act, 1948.

(2) This Act shall come into operation on the first day of July, nineteen hundred and forty-eight, being the day on which, by virtue of orders of the Board of Trade under section one hundred and twenty-three of the Companies Act, 1947, all the provisions of that Act will first be in operation, and immediately after all those provisions are in operation.

SCHEDULES.

FIRST SCHEDULE.

Tables A, B, C, D and E.

TABLE A

PART I.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED
BY SHARES, NOT BEING A PRIVATE COMPANY.

Interpretation.

1. In these regulations:—

“the Act” means the Companies Act, 1948.

“the seal” means the common seal of the company.

“secretary” means any person appointed to perform the duties of the secretary of the company.

“the United Kingdom” means Great Britain and Northern Ireland.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company.

Sections 11, 455.

Share Capital and Variation of Rights.

2. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share in the company may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the company may from time to time by ordinary resolution determine.

3. Subject to the provisions of section 58 of the Act, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are, or at the option of the company are liable, to be redeemed on such terms and in such manner as the company before the issue of the shares may by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

5. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

6. The company may exercise the powers of paying commissions conferred by section 53 of the Act, provided that the rate per cent. or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the said section and the rate of the commission shall not exceed the rate of 10 per cent. of the price at which the shares in respect whereof the same is paid are issued or an amount equal to 10 per cent. of such price (as the case may be). Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The company may also on any issue of shares pay such brokerage as may be lawful.

7. Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

8. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive within two months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate for all his shares or several certificates each for one or more of his shares

1ST SCH.
Table A
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upon payment of 2s. 6d. for every certificate after the first or such less sum as the directors shall from time to time determine. Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid up thereon. Provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

9. If a share certificate be defaced, lost or destroyed, it may be renewed on payment of a fee of 2s. 6d. or such less sum and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses of the company of investigating evidence as the directors think fit.

10. The company shall not give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares in the company or in its holding company nor shall the company make a loan for any purpose whatsoever on the security of its shares or those of its holding company, but nothing in this regulation shall prohibit transactions mentioned in the proviso to section 54 (1) of the Act.

Lien.

11. The company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a first and paramount lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon.

12. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

13. To give effect to any such sale the directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

14. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

*Calls on Shares.*1ST SCH.
Table A
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15. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call, and each member shall (subject to receiving at least fourteen days' notice specifying the time or times and place of payment) pay to the company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the directors may determine.

16. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.

17. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

18. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding 5 per cent. per annum as the directors may determine, but the directors shall be at liberty to waive payment of such interest wholly or in part.

19. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by-way of premium, shall for the purposes of these regulations be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable, and in case of non-payment all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

20. The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

21. The directors may, if they think fit, receive from any member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become payable) pay interest at such rate not exceeding (unless the company in general meeting shall otherwise direct) 5 per cent. per annum, as may be agreed upon between the directors and the member paying such sum in advance.

Transfer of Shares.

22. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and, except as provided by sub-paragraph (4) of paragraph 2 of the Seventh Schedule to the Act, the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

1ST SCH.
Table A
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23. Subject to such of the restrictions of these regulations as may be applicable, any member may transfer all or any of his shares by instrument in writing in any usual or common form or any other form which the directors may approve.

24. The directors may decline to register the transfer of a share (not being a fully paid share) to a person of whom they shall not approve, and they may also decline to register the transfer of a share on which the company has a lien.

25. The directors may also decline to recognise any instrument of transfer unless :—

- (a) a fee of 2s. 6d. or such lesser sum as the directors may from time to time require is paid to the company in respect thereof ;
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer ; and
- (c) the instrument of transfer is in respect of only one class of share.

26. If the directors refuse to register a transfer they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

27. The registration of transfers may be suspended at such times and for such periods as the directors may from time to time determine, provided always that such registration shall not be suspended for more than thirty days in any year.

28. The company shall be entitled to charge a fee not exceeding 2s. 6d. on the registration of every probate, letters of administration, certificate of death or marriage, power of attorney, notice in lieu of distringas, or other instrument.

Transmission of Shares.

29. In case of the death of a member the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognised by the company as having any title to his interest in the shares ; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

30. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as may from time to time properly be required by the directors and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his death or bankruptcy, as the case may be.

31. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his election by executing

to that person a transfer of the share. All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.

32. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company :

Provided always that the directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days the directors may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

Forfeiture of Shares.

33. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

34. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

35. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

36. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

37. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of all such moneys in respect of the shares.

38. A statutory declaration in writing that the declarant is a director or the secretary of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all

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Table A
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persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

39. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

40. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.

41. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; and the directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the shares from which the stock arose.

42. The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

43. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder"

Alteration of Capital.

44. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

45. The company may by ordinary resolution—

- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of section 61 (1) (d) of the Act;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

46. The company may by special resolution reduce its share capital, any capital redemption reserve fund or any share premium account in any manner and with, and subject to, any incident authorised, and consent required, by law.

General Meetings.

47. The 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 the company and that of the next. Provided that so long as the 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. The annual general meeting shall be held at such time and place as the directors shall appoint.

48. All general meetings other than annual general meetings shall be called extraordinary general meetings.

49. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 132 of the Act. If at any time there are not within the United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

50. An annual general meeting and a meeting called for the passing of a special resolution shall be called by twenty-one days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company:

Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this regulation, 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 95 per cent. in nominal value of the shares giving that right.

51. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

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Proceedings at General Meetings.

52. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.

53. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members present in person shall be a quorum.

54. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

55. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company, or if there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act the directors present shall elect one of their number to be chairman of the meeting.

56. If at any meeting no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.

57. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

58. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded—

- (a) by the chairman; or
- (b) by at least three members present in person or by proxy; or
- (c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or

- (d) 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.

1ST SCH.
Table A
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Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of the proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may be withdrawn.

59. Except as provided in regulation 61, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

60. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

61. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

Votes of Members.

62. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands every member present in person shall have one vote, and on a poll every member shall have one vote for each share of which he is the holder.

63. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

64. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, curator bonis, or other person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other person may, on a poll, vote by proxy.

65. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

66. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

1ST SCH
Table A
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67. On a poll votes may be given either personally or by proxy.

68. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or, if the appointer is a corporation, either under seal, or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

69. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company or at such other place within the United Kingdom as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

70. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit—

“ Limited

I/We _____, of _____, in
the county of _____, being a member/members of
the above-named company, hereby appoint
of _____, or failing him,
of _____, as my/our proxy to vote for me/us on my/our
behalf at the [annual or extraordinary, as the case may be] general
meeting of the company to be held on the _____ day of
19 _____, and at any adjournment thereof.

Signed this _____ day of _____ 19 _____.”

71. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit—

“ Limited

I/We, _____, of _____, in
the county of _____, being a member/members of the
above-named company, hereby appoint
of _____, or failing him
of _____, as my/our proxy to vote for me/us on my/our
behalf at the [annual or extraordinary, as the case may be] general
meeting of the company, to be held on the _____ day of
19 _____, and at any adjournment thereof.

Signed this _____ day of _____ 19 _____.

This form is to be used *in favour of the resolution. Unless other-
against
wise instructed, the proxy will vote as he thinks fit.

* Strike out whichever is not desired.”

72. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

73. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Corporations acting by Representatives at Meetings.

74. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

75. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum of association or a majority of them.

76. The remuneration of the directors shall from time to time be determined by the company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company.

77. The shareholding qualification for directors may be fixed by the company in general meeting, and unless and until so fixed no qualification shall be required.

78. A director of the company may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested as shareholder or otherwise, and no such director shall be accountable to the company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company unless the company otherwise direct.

Borrowing Powers.

79. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the company or of any third party:

Provided that the amount for the time being remaining undischarged of moneys borrowed or secured by the directors as aforesaid (apart

1ST SCH.
Table A
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from temporary loans obtained from the company's bankers in the ordinary course of business) shall not at any time, without the previous sanction of the company in general meeting, exceed the nominal amount of the share capital of the company for the time being issued, but nevertheless no lender or other person dealing with the company shall be concerned to see or inquire whether this limit is observed. No debt incurred or security given in excess of such limit shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given that the limit hereby imposed had been or was thereby exceeded

Powers and Duties of Directors.

80. The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not, by the Act or by these regulations, required to be exercised by the company in general meeting, subject, nevertheless, to any of these regulations, to the provisions of the Act and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

81. The directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him.

82. The company may exercise the powers conferred by section 35 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the directors.

83. The company may exercise the powers conferred upon the company by sections 119 to 123 (both inclusive) of the Act with regard to the keeping of a dominion register, and the directors may (subject to the provisions of those sections) make and vary such regulations as they may think fit respecting the keeping of any such register.

84.—(1) A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall declare the nature of his interest at a meeting of the directors in accordance with section 199 of the Act.

(2) A director shall not vote in respect of any contract or arrangement in which he is interested, and if he shall do so his vote shall

not be counted, nor shall he be counted in the quorum present at the meeting, but neither of these prohibitions shall apply to—

- (a) any arrangement for giving any director any security or indemnity in respect of money lent by him to or obligations undertaken by him for the benefit of the company ; or
- (b) to any arrangement for the giving by the company of any security to a third party in respect of a debt or obligation of the company for which the director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security ; or
- (c) any contract by a director to subscribe for or underwrite shares or debentures of the company ; or
- (d) any contract or arrangement with any other company in which he is interested only as an officer of the company or as holder of shares or other securities ;

and these prohibitions may at any time be suspended or relaxed to any extent, and either generally or in respect of any particular contract, arrangement or transaction, by the company in general meeting.

(3) A director may hold any other office or place of profit under the company (other than the office of auditor) in conjunction with his office of director for such period and on such terms (as to remuneration and otherwise) as the directors may determine and no director or intending director shall be disqualified by his office from contracting with the company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the company in which any director is in any way interested, be liable to be avoided, nor shall any director so contracting or being so interested be liable to account to the company for any profit realised by any such contract or arrangement by reason of such director holding that office or of the fiduciary relation thereby established.

(4) A director, notwithstanding his interest, may be counted in the quorum present at any meeting whereat he or any other director is appointed to hold any such office or place of profit under the company or whereat the terms of any such appointment are arranged, and he may vote on any such appointment or arrangement other than his own appointment or the arrangement of the terms thereof.

(5) Any director may act by himself or his firm in a professional capacity for the company, and he or his firm shall be entitled to remuneration for professional services as if he were not a director ; provided that nothing herein contained shall authorise a director or his firm to act as auditor to the company.

85. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.

1st Sch.
Table A
—cont.

86. The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors ;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors ;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors ;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

87. The directors on behalf of the company may pay a gratuity or pension or allowance on retirement to any director who has held any other salaried office or place of profit with the company or to his widow or dependents and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

Disqualification of Directors.

88. The office of director shall be vacated if the director—

- (a) ceases to be a director by virtue of section 182 or 185 of the Act ; or
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally ; or
- (c) becomes prohibited from being a director by reason of any order made under section 188 of the Act ; or
- (d) becomes of unsound mind ; or
- (e) resigns his office by notice in writing to the company ; or
- (f) shall for more than six months have been absent without permission of the directors from meetings of the directors held during that period.

Rotation of Directors.

89. At the first annual general meeting of the company all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

90. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

91. A retiring director shall be eligible for re-election.

92. The company at the meeting at which a director retires in manner aforesaid may fill the vacated office by electing a person thereto, and in default the retiring director shall if offering himself for re-election be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.

93. No person other than a director retiring at the meeting shall unless recommended by the directors be eligible for election to the office of director at any general meeting unless not less than three nor

more than twenty-one days before the date appointed for the meeting there shall have been left at the registered office of the company notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.

94. The company may from time to time by ordinary resolution increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

95. The directors shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these regulations. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election but shall not be taken into account in determining the directors who are to retire by rotation at such meeting.

96. The company may by ordinary resolution, of which special notice has been given in accordance with section 142 of the Act, remove any director before the expiration of his period of office notwithstanding anything in these regulations or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company.

97. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding regulation, and without prejudice to the powers of the directors under regulation 95 the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director. A person appointed in place of a director so removed or to fill such a vacancy shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director

Proceedings of Directors.

98. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from the United Kingdom.

99. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be two.

100. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company

1ST SCH.
Table A
—cont.

as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

101. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

102. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

103. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

104. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.

105. All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

106. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

Managing Director.

107. The directors may from time to time appoint one or more of their body to the office of managing director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment. A director so appointed shall not, whilst holding that office, be subject to retirement by rotation or be taken into account in determining the rotation of retirement of directors, but his appointment shall be automatically determined if he cease from any cause to be a director.

108. A managing director shall receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors may determine.

109. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and

conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

1ST SCH.
Table A
—cont.

Secretary.

110. The secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit ; and any secretary so appointed may be removed by them.

111. No person shall be appointed or hold office as secretary who is—

- (a) the sole director of the company ; or
- (b) a corporation the sole director of which is the sole director of the company ; or
- (c) the sole director of a corporation which is the sole director of the company.

112. A provision of the Act or these regulations 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.

The Seal.

113. The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the directors or of a committee of the directors authorised by the directors in that behalf, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for the purpose.

Dividends and Reserve.

114. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

115. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

116. No dividend shall be paid otherwise than out of profits.

117. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.

118. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the

1ST SCH.
Table A
—cont

purposes of this regulation as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

119. The directors may deduct from any dividend payable to any member all sums of money (if any) presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

120. Any general meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid up shares, debentures or debenture stock of any other company or in any one or more of such ways, and the directors shall give effect to such resolution, and where any difficulty arises in regard to such distribution, the directors may settle the same as they think expedient, and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.

121. Any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses or other moneys payable in respect of the shares held by them as joint holders.

122. No dividend shall bear interest against the company

Accounts.

123. The directors shall cause proper books of account to be kept with respect to:—

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods by the company; and
- (c) the assets and liabilities of the company.

Proper books shall not be deemed to be kept 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.

124. The books of account shall be kept at the registered office of the company, or, subject to section 147 (3) of the Act, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

125. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

126. The directors shall from time to time, in accordance with sections 148, 150 and 157 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.

127. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting, together with a copy of the auditors' report, shall not less than twenty-one days before the date of the meeting be sent to every member of, and every holder of debentures of, the company and to every person registered under regulation 31. Provided that this regulation 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.

Capitalisation of Profits.

128. The company in general meeting may upon the recommendation of the directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or paying up in full unissued shares or debentures of the company to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid, or partly in the one way and partly in the other, and the directors shall give effect to such resolution :

Provided that a share premium account and a capital redemption reserve fund may, for the purposes of this regulation, only be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares.

129. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully-paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorise any person to enter

1ST SCH.
Table A
—cont.

on behalf of all the members entitled thereto into an agreement with the company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisation, or (as the case may require) for the payment up by the company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.

Audit.

130. Auditors shall be appointed and their duties regulated in accordance with sections 159 to 162 of the Act.

Notices.

131. A notice may be given by the company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 24 hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

132. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.

133. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within the United Kingdom supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

134. Notice of every general meeting shall be given in any manner hereinbefore authorised to—

- (a) every member except those members who (having no registered address within the United Kingdom) have not supplied to the company an address within the United Kingdom for the giving of notices to them ;
- (b) every person upon whom the ownership of a share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting ; and
- (c) the auditor for the time being of the company.

No other person shall be entitled to receive notices of general meetings.

Winding up

135. If the company shall be wound up the liquidator may, with the sanction of an extraordinary resolution of the company and any other sanction required by the Act, divide amongst the members in specie or kind the whole or any part of the assets of the company (whether they shall consist of property of the same kind or not) and may, for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity.

136. Every director, managing director, agent, auditor, secretary and other officer for the time being of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 448 of the Act in which relief is granted to him by the court.

PART II.

REGULATIONS FOR THE MANAGEMENT OF A PRIVATE COMPANY LIMITED BY SHARES.

1. The regulations contained in Part I of Table A (with the exception of regulations 24 and 53) shall apply.
2. The company is a private company and accordingly—
 - (a) the right to transfer shares is restricted in manner hereinafter prescribed ;
 - (b) the number of members of the company (exclusive of persons who are in the employment of the company and of persons who having been formerly in the employment of the company were while in such employment and have continued after the determination of such employment to be members of the company) is limited to fifty. Provided that where two or more persons hold one or more shares in the company jointly they shall for the purpose of this regulation be treated as a single member ;
 - (c) any invitation to the public to subscribe for any shares or debentures of the company is prohibited ;
 - (d) the company shall not have power to issue share warrants to bearer.
3. The directors may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not it is a fully paid share.
4. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business ; save as herein otherwise provided two members present in person or by proxy shall be a quorum.
5. Subject to the provisions of the Act, a resolution in writing signed by all the members for the time being entitled to receive

1ST SCH.
Table A
—cont.

notice of and to attend and vote at general meetings (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the company duly convened and held.

6. The directors may at any time require any person whose name is entered in the register of members of the company to furnish them with any information, supported (if the directors so require) by a statutory declaration, which they may consider necessary for the purpose of determining whether or not the company is an exempt private company within the meaning of subsection (4) of section 129 of the Act.

Note : Regulations 3 and 4 of this Part are alternative to regulations 24 and 53 respectively of Part I.

TABLE B.

FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1st. The name of the company is "The Eastern Steam Packet Company, Limited."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are, "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. The share capital of the company is two hundred thousand pounds divided into one thousand shares of two hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers			Number of shares taken by each Subscriber
" 1. John Jones of	in the county of	merchant	200
" 2. John Smith of	in the county of	"	25
" 3. Thomas Green of	in the county of	"	30
" 4. John Thompson of	in the county of	"	40
" 5. Caleb White of	in the county of	"	15
" 6. Andrew Brown of	in the county of	"	5
" 7. Cæsar White of	in the county of	"	10
Total shares taken			325 "

Dated the

day of 19

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell,

London.

TABLE C.

1ST SCH.

FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the company is "The Kent School Association, Limited."

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are the carrying on a school for boys in the county of Kent and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

" 1. John Jones of	in the county of	schoolmaster.
" 2. John Smith of	in the county of	"
" 3. Thomas Green of	in the county of	"
" 4. John Thompson of	in the county of	"
" 5. Caleb White of	in the county of	"
" 6. Andrew Brown of	in the county of	"
" 7. Cæsar White of	in the county of	"

Dated the day of 19

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell,

London.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

Interpretation.

1. In these articles :—

"the Act" means the Companies Act, 1948.

"the seal" means the common seal of the company.

"secretary" means any person appointed to perform the duties of the secretary of the company.

"the United Kingdom" means Great Britain and Northern Ireland.

1st Sch.
Table C
—cont.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Unless the context otherwise requires, words or expressions contained in these articles shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these articles become binding on the company.

Members.

2. The number of members with which the company proposes to be registered is 500, but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

General Meetings.

4. The 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 the company and that of the next. Provided that so long as the 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. The annual general meeting shall be held at such time and place as the directors shall appoint.

5. All general meetings other than annual general meetings shall be called extraordinary general meetings.

6. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 132 of the Act. If at any time there are not within the United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

7. An annual general meeting and a meeting called for the passing of a special resolution shall be called by twenty-one days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are,

under the articles of the company, entitled to receive such notices from the company :

Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this article 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 representing not less than ninety-five per cent. of the total voting rights at that meeting of all the members.

8. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

Proceedings at General Meetings.

9. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration, of the auditors.

10. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business ; save as herein otherwise provided, three members present in person shall be a quorum.

11. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved ; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

12. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company, or if there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act the directors present shall elect one of their number to be chairman of the meeting.

13. If at any meeting no director is willing to act as chairman or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.

14. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

1ST SCH.
Table C
—cont.

When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

15. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded—

- (a) by the chairman ; or
- (b) by at least three members present in person or by proxy ; or
- (c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.

Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may be withdrawn.

16. Except as provided in article 18, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

17. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

18. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

19. Subject to the provisions of the Act a resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the company duly convened and held.

Votes of Members

20. Every member shall have one vote.

21. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, curator bonis or other person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other person may, on a poll, vote by proxy.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company or at such other place within the United Kingdom as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

26. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit—

“ Limited.
I/We of in the county of
, being a member/members
of the above named company, hereby appoint
of or failing him
of
as my/our proxy to vote for me/us on my/our behalf at the
[annual or extraordinary, as the case may be] general meeting
of the company to be held on the day of
19 , and at any adjournment thereof.
Signed this day of 19 .”

27. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit—

“ Limited.
I/We of
in the county of , being a
member/members of the above named company, hereby
appoint of
or failing him of
, as my/our proxy to vote for me/us
on my/our behalf at the [annual or extraordinary, as the
case may be] general meeting of the company to be held on
the day of 19 . and at
any adjournment thereof.
Signed this day of 19

This form is to be used *in favour of the resolution. Unless
against otherwise instructed, the proxy will vote as he thinks fit.

* Strike out whichever is not desired.”

1ST SCH.
Table C
—cont.

28. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

29. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

Corporations acting by Representatives at Meetings.

30. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

31. The number of the directors and the names of the first directors shall be determined in writing by the subscribers of the memorandum of association or a majority of them.

32. The remuneration of the directors shall from time to time be determined by the company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors shall also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company

Borrowing Powers.

33. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking and property, or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the company or of any third party

Powers and Duties of Directors.

34. The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not, by the Act or by these articles, required to be exercised by the company in general meeting, subject nevertheless to the provisions of the Act or these articles and to such regulations, being not inconsistent with the aforesaid provisions, as may be prescribed by the company in general meeting ; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

35. The directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the company for such purposes and with

such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him.

36. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.

37. The directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors ;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors ;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors ;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

Disqualification of Directors.

38. The office of director shall be vacated if the director—

- (a) without the consent of the company in general meeting holds any other office of profit under the company ; or
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally ; or
- (c) becomes prohibited from being a director by reason of any order made under section 188 of the Act ; or
- (d) becomes of unsound mind ; or
- (e) resigns his office by notice in writing to the company ; or
- (f) ceases to be a director by virtue of section 185 of the Act ;
- (g) is directly or indirectly interested in any contract with the company and fails to declare the nature of his interest in manner required by section 199 of the Act.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

39. At the first annual general meeting of the company all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

1ST SCH.
Table C
—cont.

40. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

41. A retiring director shall be eligible for re-election.

42. The company at the meeting at which a director retires in manner aforesaid may fill the vacated office by electing a person thereto, and in default the retiring director shall, if offering himself for re-election, be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.

43. No person other than a director retiring at the meeting shall unless recommended by the directors be eligible for election to the office of director at any general meeting unless, not less than three nor more than twenty-one days before the date appointed for the meeting, there shall have been left at the registered office of the company notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.

44. The company may from time to time by ordinary resolution increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

45. The directors shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these articles. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election, but shall not be taken into account in determining the directors who are to retire by rotation at such meeting.

46. The company may by ordinary resolution, of which special notice has been given in accordance with section 142 of the Act, remove any director before the expiration of his period of office notwithstanding anything in these articles or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company.

47. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding article. Without prejudice to the powers of the directors under article 45 the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director. The person appointed to fill such a vacancy shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

*Proceedings of Directors.*1st Sch.
Table C.
—cont.

48. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from the United Kingdom.

49. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be two.

50. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the articles of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

51. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

52. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit: any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

53. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

54. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.

55. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

1ST SCH
Table C.
—cont.

56. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.

Secretary.

57. The secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit ; and any secretary so appointed may be removed by them.

58. A provision of the Act or these articles 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.

The Seal.

59. The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the directors or of a committee of the directors authorised by the directors in that behalf, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for the purpose.

Accounts.

60. The directors shall cause proper books of account to be kept with respect to—

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place ;
- (b) all sales and purchases of goods by the company ; and
- (c) the assets and liabilities of the company.

Proper books shall not be deemed to be kept 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.

61. The books of account shall be kept at the registered office of the company, or, subject to section 147 (3) of the Act, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

62. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting

any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

1ST SCH.
Table C.
—cont.

63. The directors shall from time to time in accordance with sections 148, 150 and 157 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.

64. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting, together with a copy of the auditor's report, shall not less than twenty-one days before the date of the meeting be sent to every member of, and every holder of debentures of, the company. Provided that this article 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 debentures.

Audit.

65. Auditors shall be appointed and their duties regulated in accordance with sections 159 to 162 of the Act.

Notices.

66. A notice may be given by the company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 24 hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

67. Notice of every general meeting shall be given in any manner hereinbefore authorised to—

- (a) every member except those members who (having no registered address within the United Kingdom) have not supplied to the company an address within the United Kingdom for the giving of notices to them ;
- (b) every person being a legal personal representative or a trustee in bankruptcy of a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting ; and
- (c) the auditor for the time being of the company.

No other person shall be entitled to receive notices of general meetings.

1ST SCH.
Table C.
—cont.

Names, Addresses and Descriptions of Subscribers.

" 1. John Jones of	in the county of	schoolmaster.
" 2. John Smith of	in the county of	"
" 3. Thomas Green of	in the county of	"
" 4. John Thompson of	in the county of	"
" 5. Caleb White of	in the county of	"
" 6. Andrew Brown of	in the county of	"
" 7. Cæsar White of	in the county of	"

Dated the day of 19 ."

Witness to the above signatures,

A.B., No. 20, Bond Street, London.

TABLE D.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED
BY GUARANTEE, AND HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the company is "The Highland Hotel Company, Limited."

2nd. The registered office of the company will be situate in Scotland.

3rd. The objects for which the company is established are "the facilitating travelling in the Highlands of Scotland, by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding twenty pounds.

6th. The share capital of the company shall consist of five hundred thousand pounds, divided into five thousand shares of one hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to

take the number of shares in the capital of the company set opposite our respective names.

1ST SCH.
Table D.
—cont.

Names, Addresses, and Descriptions of Subscribers.			Number of shares taken by each Subscriber.
" 1.	John Jones of	in the county of merchant	200
" 2.	John Smith of	in the county of "	25
" 3.	Thomas Green of	in the county of "	30
" 4.	John Thompson of	in the county of "	40
" 5.	Caleb White of	in the county of "	15
" 6.	Andrew Brown of	in the county of "	5
" 7.	Cæsar White of	in the county of "	10
Total shares taken			325 "

Dated the day of 19 .

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell,

London.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
MEMORANDUM OF ASSOCIATION.

1. The number of members with which the company proposes to be registered is 50, but the directors may from time to time register an increase of members.

2. The regulations of Table A, Part I, set out in the First Schedule to the Companies Act, 1948, shall be deemed to be incorporated with these articles and shall apply to the company.

Names, Addresses and Descriptions of Subscribers.

" 1.	John Jones of	in the county of	merchant.
" 2.	John Smith of	in the county of	"
" 3.	Thomas Green of	in the county of	"
" 4.	John Thompson of	in the county of	"
" 5.	Caleb White of	in the county of	"
" 6.	Andrew Brown of	in the county of	"
" 7.	Cæsar White of	in the county of	"

Dated the day of 19 ."

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell,

London.

TABLE E.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED
COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the company is "The Patent Stereotype Company."

1ST SCH.
Table E.
—cont.

2nd. The registered office of the company will be situate in England.

3rd. The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates, of which method John Smith of London is the sole patentee, and the doing of all such things as are incidental or conducive to the attainment of the above objects."

WE, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers			Number of shares taken by each Subscriber
" 1. John Jones of	in the county of	merchant	3
" 2. John Smith of	in the county of	"	2
" 3. Thomas Green of	in the county of	"	1
" 4. John Thompson of	in the county of	"	2
" 5. Caleb White of	in the county of	"	2
" 6. Andrew Brown of	in the county of	"	1
" 7. Abel Brown of	in the county of	"	1
Total shares taken			12 "

Dated the day of 19 .

Witness to the above signatures,

A.B., No. 20, Bond Street, London.

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION.

1. The number of members with which the company proposes to be registered is 20, but the directors may from time to time register an increase of members.

2. The share capital of the company is two thousand pounds divided into twenty shares of one hundred pounds each.

3. The company may by special resolution—

- (a) increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe ;
- (b) consolidate its shares into shares of a larger amount than its existing shares ;
- (c) sub-divide its shares into shares of a smaller amount than its existing shares ;
- (d) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person ;
- (e) reduce its share capital in any way.

4. The regulations of Table A, Part I, set out in the First Schedule to the Companies Act, 1948 (other than regulations 40 to 46 inclusive) shall be deemed to be incorporated with these articles and shall apply to the company.

Names, Addresses and Descriptions of Subscribers

- | | | |
|---------------------|------------------|-----------|
| 1. John Jones of | in the county of | merchant. |
| 2. John Smith of | in the county of | " |
| 3. Thomas Green of | in the county of | " |
| 4. John Thompson of | in the county of | " |
| 5. Caleb White of | in the county of | " |
| 6. Andrew Brown of | in the county of | " |
| 7. Abel Brown of | in the county of | " |

1ST SCH.
Table E.
—cont.

Dated the day of 19 .

Witness to the above signatures,
A.B., No. 20, Bond Street, London.

SECOND SCHEDULE

Sections 14, 454.

FORM OF LICENCE TO HOLD LANDS

The Board of Trade hereby licence the
to hold the lands hereunder described (*insert description of lands*) [or
to hold lands not exceeding in the whole acres].
The conditions of this licence are (*insert conditions, if any*)

THIRD SCHEDULE.

Section 30.

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE
DELIVERED TO REGISTRAR BY A PRIVATE COMPANY
ON BECOMING A PUBLIC COMPANY AND REPORTS
TO BE SET OUT THEREIN

PART I.

FORM OF STATEMENT AND PARTICULARS TO BE CONTAINED THEREIN.
THE COMPANIES ACT, 1948.

Statement in lieu of Prospectus delivered for registration by
[Insert the name of the company.]

Pursuant to section 30 of the Companies Act, 1948

Delivered for registration by

The nominal share capital of the company.	£	
Divided into	Shares of £	each
	" "	"
	" "	"
Amount (if any) of above capital which consists of redeemable preference shares.	Shares of £	each.
The earliest date on which the company has power to redeem these shares.		
Names, descriptions and addresses of directors or proposed directors.		

3RD SCH.
—cont.

<p>Amount of shares issued</p> <p>Amount of commissions paid in connection therewith.</p> <p>Amount of discount, if any, allowed on the issue of any shares, or so much thereof as has not been written off at the date of the statement.</p> <p>Unless more than one year has elapsed since the date on which the Company was entitled to commence business :—</p> <p style="padding-left: 2em;">Amount of preliminary expenses By whom those expenses have been paid or are payable.</p> <p style="padding-left: 2em;">Amount paid to any promoter ...</p> <p style="padding-left: 2em;">Consideration for the payment ...</p> <p style="padding-left: 2em;">Any other benefit given to any promoter.</p> <p style="padding-left: 2em;">Consideration for giving of benefit</p> <p>If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.</p> <p>Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.</p> <p>Consideration for the issue of those shares or debentures.</p> <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>Shares</p> <p>£</p> <p>Name of promoter :—</p> <p>Amount £ .</p> <p>Consideration :—</p> <p>Name of promoter :—</p> <p>Nature and value of benefit :—</p> <p>Consideration :—</p> <p>1. shares of £ fully paid.</p> <p>2. shares upon which £ per share credited as paid.</p> <p>3. debenture £</p> <p>4. Consideration :—</p> <p>1. shares of £ and debentures of £</p> <p>2. Until</p>
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Price to be paid for shares or debentures subscribed for or acquired under option.

Consideration for option or right to option.

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.

Names and addresses of vendors of property (1) purchased or acquired by the company within the two years preceding the date of this statement or (2) agreed or proposed to be purchased or acquired by the company, 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.

Amount (in cash, shares or debentures) paid or payable to each separate vendor.

Amount paid or payable in cash, shares or debentures for any such property, specifying the amount paid or payable for goodwill.

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.

Dates of, parties to, and general nature of every material contract (other than contracts entered into in the ordinary course of business or entered into more than two years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected or (1) in the case of a contract not reduced into writing, a memorandum

3.

4. Consideration :—

5. Names and addresses :—

Total purchase price £

Cash	£
Shares	£
Debentures	£

Goodwill	£
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3RD SCH.
—*con.*

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.

Names and addresses of the auditors of the company.

Full particulars of the nature and extent of the interest of every director in any property purchased or acquired by the company within the two years preceding the date of this statement or proposed to be purchased or acquired by the company or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become or to qualify him as, a director, or otherwise for services rendered or to be rendered to the company by him or by the firm.

Rates of the dividends (if any) paid by the company in respect of each class of shares in the company in each of the five financial years immediately preceding the date of this statement or since the incorporation of the company whichever period is the shorter.

Particulars of the cases in which no dividends have been paid in respect of any class of shares in any of these years.

(Signatures of the persons above-named as directors or proposed directors or of their agents authorised in writing.)

Date.

PART II.

3RD SCH.
—cont.

REPORTS TO BE SET OUT.

1. If unissued shares or debentures of the company are to be applied in the purchase of a business, a report made by accountants (who shall be named in the statement) upon—

- (a) the profits or losses of the business in respect of each of the five financial years immediately preceding the delivery of the statement to the registrar ; and
- (b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.

2.—(1) If unissued shares or debentures of the company 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, a report made by accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other body corporate in accordance with sub-paragraph (2) or (3) of this paragraph, as the case requires, indicating 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.

(2) If the other body corporate has no subsidiaries, the report referred to in the foregoing sub-paragraph shall—

- (a) so far as regards profits and losses, deal with the profits or losses of the body corporate in respect of each of the five financial years immediately preceding the delivery of the statement to the registrar ; and
- (b) so far as regards assets and liabilities, deal with the assets and liabilities of the body corporate at the last date to which the accounts of the body corporate were made up.

(3) If the other body corporate has subsidiaries, the report referred to in sub-paragraph (1) of this paragraph shall—

- (a) so far as regards profits and losses, deal separately with the other body corporate's profits or losses as provided by the last foregoing sub-paragraph, and in addition deal either—
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the other body corporate ; or
 - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the other body corporate ;

or, instead of dealing separately with the other body corporate's profits or losses, deal as a whole with the profits or losses of the other body corporate and, so far as they

3RD SCH.
—COMI.

concern members of the other body corporate, with the combined profits or losses of its subsidiaries; and

- (b) so far as regards assets and liabilities, deal separately with the other body corporate's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, deal either—
- (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other body corporate's assets and liabilities; or
 - (ii) individually with the assets and liabilities of each subsidiary;

and shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

PART III.

PROVISIONS APPLYING TO PARTS I AND II OF THIS SCHEDULE.

3. In this Schedule the expression " vendor " includes a vendor as defined in Part III of the Fourth Schedule to this Act, and the expression " financial year " has the meaning assigned to it in that Part of that Schedule.

4. If in the case of a business which has been carried on, or of a body corporate which has been carrying on business, for less than five years, the accounts of the business or body corporate have only been made up in respect of four years, three years, two years or one year, Part II of this Schedule shall have effect as if references to four years, three years, two years or one year, as the case may be, were substituted for references to five years.

5. Any report required by Part II of this Schedule 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.

6. Any report by accountants required by Part II of this Schedule shall be made by accountants qualified under this Act for appointment as auditors of a company which is not an exempt private company 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 paragraph the expression " officer " shall include a proposed director but not an auditor.

FOURTH SCHEDULE.

Sections 30, 38,
39, 41, 47, 417,
418, 420.

MATTERS TO BE SPECIFIED IN PROSPECTUS AND REPORTS TO BE SET
OUT THEREIN.

PART I.

MATTERS TO BE SPECIFIED.

1. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.

2. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.

3. The names, descriptions and addresses of the directors or proposed directors.

4. Where shares are offered to the public for subscription, particulars as to—

(a) the minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters :—

(i) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue ;

(ii) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company ;

(iii) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters ;

(iv) working capital ; and

(b) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

5. The time of the opening of the subscription lists.

6. The amount payable on application and allotment on each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.

7. 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—

(a) the period during which it is exercisable ;

(b) the price to be paid for shares or debentures subscribed for under it ;

4TH SCH.
—cont

- (c) the consideration (if any) given or to be given for it or for the right to it ;
- (d) 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.

8. The number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

9.—(1) As respects any property to which this paragraph applies—

- (a) the names and addresses of the vendors ;
- (b) the amount payable in cash, shares or debentures to the vendor and, where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor ;
- (c) short particulars of any transaction relating to the 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.

(2) The property to which this paragraph applies is property purchased or acquired by the company or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of the issue of the prospectus, other than property—

- (a) the contract for the purchase or acquisition whereof 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) as respects which the amount of the purchase money is not material.

10. The amount, if any, paid or payable as purchase money in cash, shares or debentures for any property to which the last foregoing paragraph applies, specifying the amount, if any, payable for goodwill.

11. The amount, if any, paid within the two preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in or debentures of the company, or the rate of any such commission.

12. The amount or estimated amount of preliminary expenses and the persons by whom any of those expenses have been paid or are payable, and the amount or estimated amount of the expenses of the issue and the persons by whom any of those expenses have been paid or are payable.

13. Any amount or benefit paid or given within the two preceding years or intended to be paid or given to any promoter, and the consideration for the payment or the giving of the benefit.

4TH SCH.
—cont.

14. The dates of, parties to and general nature of every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than two years before the date of issue of the prospectus.

15. The names and addresses of the auditors, if any, of the company.

16. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

17. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

18. In the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

PART II.

REPORTS TO BE SET OUT.

19.—(1) A report by the auditors of the company with respect to—

- (a) profits and losses and assets and liabilities, in accordance with sub-paragraph (2) or (3) of this paragraph, as the case requires ; and
- (b) the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the five financial years immediately preceding the issue of the prospectus, giving particulars of each such class of share on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years ;

and, if no accounts have been made up in respect of any part of the period of five years ending on a date three months before the issue of the prospectus, containing a statement of that fact.

4TH SCH
—cont.

- (2) If the company has no subsidiaries, the report shall—
- (a) so far as regards profits and losses, deal with the profits or losses of the company in respect of each of the five financial years immediately preceding the issue of the prospectus ; and
 - (b) so far as regards assets and liabilities, deal with the assets and liabilities of the company at the last date to which the accounts of the company were made up.
- (3) If the company has subsidiaries, the report shall—
- (a) so far as regards profits and losses, deal separately with the company's profits or losses as provided by the last foregoing sub-paragraph, and in addition, 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, 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
 - (b) so far as regards assets and liabilities, deal separately with the company's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, 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 shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

20. If 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 the purchase of any business, a report made by accountants (who shall be named in the prospectus) upon—

- (a) the profits or losses of the business in respect of each of the five financial years immediately preceding the issue of the prospectus ; and
- (b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.

21.—(1) 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 ;

a report made by accountants (who shall be named in the prospectus) upon—

- (i) the profits or losses of the other body corporate in respect of each of the five financial years immediately preceding the issue of the prospectus ; and
- (ii) the assets and liabilities of the other body corporate at the last date to which the accounts of the body corporate were made up.
- (2) The said report shall—
- (a) 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
- (b) where the other body corporate has subsidiaries, deal with the profits or losses and the assets and liabilities of the body corporate and its subsidiaries in the manner provided by sub-paragraph (3) of paragraph 19 of this Schedule in relation to the company and its subsidiaries.

PART III.

PROVISIONS APPLYING TO PARTS I AND II OF SCHEDULE.

22. Paragraphs 2, 3, 12 (so far as it relates to preliminary expenses) and 16 of this Schedule shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

23. Every person shall for the purposes of this Schedule, be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

- (a) the purchase money is not fully paid at the date of the issue of the prospectus ;
- (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus ;
- (c) the contract depends for its validity or fulfilment on the result of that issue.

24. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression " vendor " included the lessor, and the expression " purchase money " included the consideration for the lease, and the expression " sub-purchaser " included a sub-lessee.

4TH SCH.
—cont.

25. References in paragraph 7 of this Schedule 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.

26. For the purposes of paragraph 9 of this Schedule where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.

27. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than five years, the accounts of the company or business have only been made up in respect of four years, three years, two years or one year, Part II of this Schedule shall have effect as if references to four years, three years, two years or one year, as the case may be, were substituted for references to five years.

28. The expression "financial year" in Part II of this Schedule means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purpose of that Part of this Schedule be deemed to be a financial year.

29. Any report required by Part II of this Schedule 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.

30. Any report by accountants required by Part II of this Schedule shall be made by accountants qualified under this Act for appointment as auditors of a company which is not an exempt private company 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 paragraph the expression "officer" shall include a proposed director but not an auditor.

FIFTH SCHEDULE.

Section 48.

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A COMPANY WHICH DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT GO TO ALLOTMENT ON A PROSPECTUS ISSUED, AND REPORTS TO BE SET OUT THEREIN.

PART I.

FORM OF STATEMENT AND PARTICULARS TO BE CONTAINED THEREIN.
THE COMPANIES ACT, 1948.

Statement in lieu of Prospectus delivered for registration by

[Insert the name of the company.]

Pursuant to section 48 of the Companies Act, 1948.

Delivered for registration by

The nominal share capital of the company.

Divided into

£
Shares of £ each.
" " "
" " "
Shares of £ each.

Amount (if any) of above capital which consists of redeemable preference shares.

The earliest date on which the company has power to redeem these shares.

Names, descriptions and addresses of directors or proposed directors.

If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.

The consideration for the intended issue of those shares and debentures.

1. shares of £ fully paid.
2. shares upon which £ per share credited as paid.
3. debenture £
4. Consideration :—

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.

1. shares of £ and debentures of £

5TH SCH
—cont

Period during which option is exercisable.

Price to be paid for shares or debentures subscribed for or acquired under option.

Consideration for option or right to option.

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.

Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company 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.

Amount (in cash, shares or debentures) payable to each separate vendor.

Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.

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.

Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company; or

Rate of the commission

The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.

2. Until

3.

4. Consideration :

5. Names and addresses :—

Total purchase price £

Cash ... £

Shares ... £

Debentures... £

Goodwill ... £

Amount paid.

.. payable.

Rate per cent.

Estimated amount of preliminary expenses.

£ .

5TH SCH.
—cont.

By whom those expenses have been paid or are payable.

Amount paid or intended to be paid to any promoter.

Name of promoter.

Amount £

Consideration for the payment ...

Consideration :—

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 :—

Dates of, parties to and general nature of every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected 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.

Names and addresses of the auditors of the company (if any).

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him

5TH SCH.
—cont

to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorised in writing.)

Date

PART II.

REPORTS TO BE SET OUT.

1. Where it is proposed to acquire a business, a report made by accountants (who shall be named in the statement) upon—

- (a) the profits or losses of the business in respect of each of the five financial years immediately preceding the delivery of the statement to the registrar; and
- (b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.

2.—(1) Where it is proposed to acquire 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, a report made by accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other body corporate in accordance with sub-paragraph (2) or (3) of this paragraph, as the case requires, indicating 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.

(2) If the other body corporate has no subsidiaries, the report referred to in the last foregoing sub-paragraph shall—

- (a) so far as regards profits and losses, deal with the profits or losses of the body corporate in respect of each of the five financial years immediately preceding the delivery of the statement to the registrar; and
- (b) so far as regards assets and liabilities, deal with the assets and liabilities of the body corporate at the last date to which the accounts of the body corporate were made up.

(3) If the other body corporate has subsidiaries, the report referred to in sub-paragraph (1) of this paragraph shall—

- (a) so far as regards profits and losses, deal separately with the other body corporate's profits or losses as provided by the last foregoing sub-paragraph, and in addition deal either—
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the other body corporate; or

(ii) individually with the profits or losses of each subsidiary, so far as they concern members of the other body corporate ;

or, instead of dealing separately with the other body corporate's profits or losses, deal as a whole with the profits or losses of the other body corporate and, so far as they concern members of the other body corporate, with the combined profits or losses of its subsidiaries ; and

(b) so far as regards assets and liabilities, deal separately with the other body corporate's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, deal either—

(i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other body corporate's assets and liabilities ; or

(ii) individually with the assets and liabilities of each subsidiary ;

and shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

PART III.

PROVISIONS APPLYING TO PARTS I AND II OF THIS SCHEDULE.

3. In this Schedule the expression " vendor " includes a vendor as defined in Part III of the Fourth Schedule to this Act, and the expression " financial year " has the meaning assigned to it in that Part of that Schedule.

4. If in the case of a business which has been carried on, or of a body corporate which has been carrying on business, for less than five years, the accounts of the business or body corporate have only been made up in respect of four years, three years, two years or one year, Part II of this Schedule shall have effect as if references to four years, three years, two years or one year, as the case may be, were substituted for references to five years.

5. Any report required by Part II of this Schedule 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.

6. Any report by accountants required by Part II of this Schedule shall be made by accountants qualified under this Act for appointment as auditors of a company which is not an exempt private company 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 paragraph the expression " officer " shall include a proposed director but not an auditor.

SIXTH SCHEDULE.

 CONTENTS AND FORM OF ANNUAL RETURN OF A COMPANY
HAVING A SHARE CAPITAL.

PART I.

CONTENTS.

1. The address of the registered office of the company.

2.—(1) If the register of members is, under the provisions of this Act, kept elsewhere than at the registered office of the company, the address of the place where it is kept.

(2) If any register of holders of debentures of the company or any duplicate of any such register or part of any such register is, under the provisions of this Act, kept, in England in the case of a company registered in England or in Scotland in the case of a company registered in Scotland, elsewhere than at the registered office of the company, the address of the place where it is kept.

3. A summary, distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, specifying the following particulars:—

- (a) the amount of the share capital of the company and the number of shares into which it is divided ;
- (b) the number of shares taken from the commencement of the company up to the date of the return ;
- (c) the amount called up on each share ;
- (d) the total amount of calls received ;
- (e) the total amount of calls unpaid ;
- (f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures ;
- (g) the discount allowed on the issue of any shares issued at a discount or so much of that discount as has not been written off at the date on which the return is made ;
- (h) the total amount of the sums (if any) allowed by way of discount in respect of any debentures since the date of the last return ;
- (i) the total number of shares forfeited ;
- (j) the total amount of shares for which share warrants are outstanding at the date of the return and of share warrants issued and surrendered respectively since the date of the last return, and the number of shares comprised in each warrant.

4. Particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required (or, in the case of a company registered in Scotland, which, if the company had been registered in England, would be required) to be registered with the registrar of companies under this Act, or which would have been required so to be registered if created after the first day of July, nineteen hundred and eight.

5. A list—

6TH SCH.
—cont

- (a) containing the names and addresses of all persons who, on the fourteenth day after the company's annual general meeting for the year, are members of the company, and of persons who have ceased to be members since the date of the last return or, in the case of the first return, since the incorporation of the company ;
- (b) stating the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return (or, in the case of the first return, since the incorporation of the company) by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers ;
- (c) if the names aforesaid are not arranged in alphabetical order, having annexed thereto an index sufficient to enable the name of any person therein to be easily found.

6. All such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is the secretary of the company as are by this Act required to be contained with respect to directors and the secretary respectively in the register of the directors and secretaries of a company.

PART II.

FORM.

ANNUAL RETURN of _____ Limited,
made up to the _____ day of _____, 19 _____ (being the
fourteenth day after the date of the annual general meeting for the
year 19 _____).

1. Address.

(Address of the registered office of the company.)

2. Situation of Registers of Members and Debenture-holders

- (a) *(Address of place at which the register of members is kept, if other than the registered office of the company.)*
- (b) *(Address of any place in Great Britain other than the registered office of the company at which is kept any register of holders of debentures of the company or any duplicate of any such register or part of any such register which is kept outside Great Britain.)*

6TH SCH.
—cont.

3. Summary of Share Capital and Debentures.

(a) *Nominal Share Capital.*

Nominal share capital £..... divided into :
 (Insert number and class) shares of each
 shares of each
 shares of each
 shares of each

(b) *Issued Share Capital and Debentures.*

	<i>Number</i>	<i>Class</i>	
Number of shares of each class taken up to the date of this return (which number must agree with the total shown in the list as held by existing members).	shares
	shares
	shares
	shares
Number of shares of each class issued subject to payment wholly in cash.	shares
	shares
	shares
	shares
Number of shares of each class issued as fully paid up for a consideration other than cash.	shares
	shares
	shares
	shares
Number of shares of each class issued as partly paid up for a consideration other than cash and extent to which each such share is so paid up.	shares
	issued as paid up to the extent of £..... per share.
	shares
	issued as paid up to the extent of £..... per share.
	shares
	issued as paid up to the extent of £..... per share.
	shares
	issued as paid up to the extent of £..... per share.
	shares
Number of shares (if any) of each class issued at a discount.	shares
	shares
	shares
	shares
Amount of discount on the issue of shares which has not been written off at the date of this return.	£.....		
	<i>Number</i>	<i>Class</i>	
Amount called up on number	shares
of shares of	shares
each class.	shares
	shares
Total amount of calls received, including payments on application and allotment and any sums received on shares forfeited.			£.....

	<i>Number</i>	<i>Class</i>	6TH SCH. —cont.
Total amount (if any) agreed to be considered as paid on number of shares of each class issued as fully paid up for a consideration other than cash. } £..... on	{	.....	shares
		.....	shares
		.....	shares
		.....	shares
Total amount (if any) agreed to be considered as paid on number of shares of each class issued as partly paid up for a consideration other than cash. } £..... on	{	.....	shares
		.....	shares
		.....	shares
		.....	shares
Total amount of calls unpaid ...	£.....		
Total amount of the sums (if any) paid by way of commission in respect of any shares or debentures.	£.....		
Total amount of the sums (if any) allowed by way of discount in respect of any debentures since the date of the last return.	£.....		
	<i>Number</i>	<i>Class</i>	
Total number of shares of each class forfeited.	.....	.....	shares
	.....	.....	shares
	.....	.....	shares
	.....	.....	shares
Total amount paid (if any) on shares forfeited.	£.....		
Total amount of shares for which share warrants to bearer are outstanding.	£.....		
Total amount of share warrants to bearer issued and surrendered respectively since the date of the last return.	Issued :	£.....	
	Surrendered :	£.....	
Number of shares comprised in each share warrant to bearer, specifying in the case of warrants of different kinds, particulars of each kind.	.....	

4. Particulars of Indebtedness.

Total amount of indebtedness of the company in respect of all mortgages and charges which are required (or, in the case of a company registered in Scotland, which, if the company had been registered in England, would be required) to be registered with the registrar of companies under the Companies Act, 1948, or which would have been required so to be registered if created after 1st July, 1908.

£.....

6TH SCH
—cont

5. List of Past and Present Members.

List of persons holding shares or stock in the company on the fourteenth day after the annual general meeting for 19 , and of persons who have held shares or stock therein at any time since the date of the last return, or in the case of the first return, of the incorporation of the company.

Folio in register ledger containing particulars	Names and addresses	Account of Shares			Remarks
		Number of shares held by existing members at date of return *†	Particulars of shares transferred since the date of the last return, or, in the case of the first return, of the incorporation of the company, by (a) persons who are still members and (b) persons who have ceased to be members‡		
			Number †	Date of registration of transfer	
			(a)	(b)	

* The aggregate number of shares held by each member must be stated, and the aggregates must be added up so as to agree with the number of shares stated in the Summary of Share Capital and Debentures to have been taken up.

† When the shares are of different classes these columns should be sub-divided so that the number of each class held, or transferred, may be shown separately. Where any shares have been converted into stock the amount of stock held by each member must be shown.

‡ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

Notes

1. If the return for either of the two immediately preceding years has given as at the date of that return the full particulars required as to past and present members and the shares and stock held and transferred by them, only such of the particulars need be given 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.

2. If the names in the list are not arranged in alphabetical order, an index sufficient to enable the name of any person to be readily found must be annexed.

6. Particulars of Directors and Secretaries.

6TH SCH.
—cont.

Particulars of the persons who are directors of the company at the date of this return.

Name. (In the case of an individual, present Christian name or names and surname. In the case of a corporation, the corporate name.)	Any former Christian name or names and surname	Nation-ality.	Usual residential address. (In the case of a corporation, the registered or principal office.)	Business occupation and particulars of other directorships.	Date of birth.

Particulars of the person who is secretary of the company at the date of this return.

Name. (In the case of an individual, present Christian name or names and surname. In the case of a corporation or a Scottish firm, the corporate or firm name.)	Any former Christian name or names and surname.	Usual residential address. (In the case of a corporation or Scottish firm, the registered or principal office.)

Signed....., Director.

Signed....., Secretary.

Notes.

“ Director ” includes any person who occupies the position of a director by whatsoever name called, and any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

“ Christian name ” includes a forename, and “ surname ”, in the case of a peer or person usually known by a title different from his surname, means that title.

“ Former Christian name ” and “ former surname ” do not include—

- (a) in the case of a peer or a person usually known by a British title different from his surname, the name by which he was known previous to the adoption of or succession to the title; or
- (b) 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
- (c) in the case of a married woman the name or surname by which she was known previous to the marriage.

6TH SCH.
—cont

The names of all bodies corporate incorporated in Great Britain of which the director is also a director, should be given, except bodies corporate of which the company making the return is the wholly-owned subsidiary or bodies corporate which are the wholly-owned subsidiaries either of the company or of another company of which the company is the wholly-owned subsidiary. A body corporate is 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. If the space provided in the form is insufficient, particulars of other directorships should be listed on a separate statement attached to this return.

Dates of birth need only be given in the case of a company which is subject to section 185 of the Companies Act, 1948, namely, a company which is not a private company or which, being a private company, 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.

Where all the partners in a firm are joint secretaries, the name and principal office of the firm may be stated.

* Delivered for filing by.....

CERTIFICATES AND OTHER DOCUMENTS ACCOMPANYING ANNUAL
RETURN

Certificate to be given by a Director and the Secretary of every Private Company (whether an Exempt Private Company or not).

We certify that the company has not since the date of† [the incorporation of the company/the last annual return] issued any invitation to the public to subscribe for any shares or debentures of the company.

Signed....., Director.

Signed....., Secretary.

Further Certificate to be given as aforesaid if the Number of Members of the Company exceeds Fifty.

We certify that the excess of the number of members of the company over fifty consists wholly of persons who, under paragraph (b) of subsection (1) of section twenty-eight of the Companies Act, 1948, are not to be included in reckoning the number of fifty.

Signed....., Director.

Signed....., Secretary.

Certified copies of Accounts.

Except where the company is either an exempt private company as defined by section 129 (4) of the Companies Act, 1948, which sends with this return a certificate in the form set out below or an assurance

* This should be printed at the bottom of the first page of the return.

† In the case of the first return strike out the second alternative. In the case of a second or subsequent return strike out the first alternative.

company which has complied with the provisions of section 7 (4) of the Assurance Companies Act, 1909, there must be annexed to this return a written copy, certified both by a director and by the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which this return relates (including every document required by law to be annexed to the balance sheet) and a copy (certified as aforesaid) of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet. If any such balance sheet or document required by law to be annexed thereto is in a foreign language there must also be annexed to that balance sheet a translation in English of the balance sheet or document certified in the prescribed manner to be a correct translation. If any such balance sheet as aforesaid or document required by law to be annexed thereto did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets or documents aforesaid, as the case may be, there must be made such additions to and corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with the said requirements, and the fact that the copy has been so amended must be stated thereon.

*Additional Certificate to be given in the case of an Exempt
Private Company by the Persons signing the above-mentioned
Certificates.*

We certify that, to the best of our knowledge and belief, the conditions mentioned in subsection (2) of section one hundred and twenty-nine of the Companies Act, 1948, are satisfied at the date of this return and have been satisfied at all times since.....*

Signed....., Director.

Signed....., Secretary.

Banking Companies.

A banking company, in order to avail itself of the benefit of s. 432 of the Companies Act, 1948, must add to this return a statement of the names of the several places where it carries on business.

* Insert '1st July, 1948' (the date of the commencement of the Companies Act, 1948) or, if the company was registered after that date, the date on which it was registered, or, if the proviso to s. 129 (1) of the Companies Act, 1948, has effect in relation to the return, the time at which it was shown to the Board of Trade that the conditions mentioned in the certificate were satisfied.

Sections 129,
410.

SEVENTH 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.

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 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,

7TH SCH
—cont

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—

- (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.

7TH SCH.
—cont.

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:

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

7TH SCH.
—cont.

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.

Sections 56, 149,
152, 157 454.

EIGHTH SCHEDULE.

ACCOUNTS.

PRELIMINARY.

1. Paragraphs 2 to 11 of this Schedule apply to the balance sheet and 12 to 14 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 ; and this Schedule has effect in addition to the provisions of sections one hundred and ninety-six and one hundred and ninety-seven of this Act.

PART I.

GENERAL PROVISIONS AS TO BALANCE SHEET AND PROFIT AND LOSS ACCOUNT.

Balance Sheet.

2. The authorised share capital, issued share capital, liabilities and assets shall be summarised, with such particulars as are necessary to disclose the general nature of the assets and liabilities, and there shall be specified—

- (a) any part of the issued capital that consists of redeemable preference shares, and the earliest date on which the company has power to redeem those shares ;
- (b) so far as the information is not given in the profit and loss account, any share capital on which interest has been paid out of capital during the financial year, and the rate at which interest has been so paid ;
- (c) the amount of the share premium account ;
- (d) particulars of any redeemed debentures which the company has power to re-issue.

3. There shall be stated under separate headings, so far as they are not written off,—

- (a) the preliminary expenses ;
- (b) any expenses incurred in connection with any issue of share capital or debentures ;
- (c) any sums paid by way of commission in respect of any shares or debentures ;

- (d) any sums allowed by way of discount in respect of any debentures ; and
- (e) the amount of the discount allowed on any issue of shares at a discount.

8TH SCH.
—cont.

4.—(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.

5.—(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 commencement of this Act (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 the commencement of this Act cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of those assets made at the commencement of this Act 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 commencement of this Act 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.

8TH SCH.
—cont.

(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.

6. 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.

7.—(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

(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.

8.—(1) There shall be shown under separate headings—

8TH SCH.
—cont.

- (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 the amount of the goodwill and of any patents and trademarks or part of that amount is shown as a separate item in or is otherwise ascertainable from the books of the company, or from any contract for the sale or purchase of any property to be acquired by the company, or from any documents in the possession of the company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property, the said amount so shown or ascertained so far as not written off or, as the case may be, the said amount so far as it is so shown or ascertainable and as so shown or ascertained, as the case may be ;
- (c) the aggregate amount of any outstanding loans made under the authority of provisos (b) and (c) of subsection (1) of section fifty-four of this Act ;
- (d) the aggregate amount of bank loans and overdrafts ;
- (e) the net aggregate amount (after deduction of income tax) which is recommended for distribution by way of dividend.

(2) Nothing in head (b) of the foregoing sub-paragraph shall be taken as requiring the amount of the goodwill, patents and trademarks to be stated otherwise than as a single item.

(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.

9. Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the fact that that liability is so secured shall be stated, but it shall not be necessary to specify the assets on which the liability is secured.

10. 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.

11.—(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

8TH SCH.
—cont.

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 commencement of this Act, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet.

Profit and Loss Account.

12.—(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 ;
- (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.

8TH SCH.
—cont.

(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.

13. If the remuneration of the auditors is not fixed by the company in general meeting, the amount thereof shall be shown under a separate heading, and for the purposes of this paragraph, any sums paid by the company in respect of the auditors' expenses shall be deemed to be included in the expression " remuneration ".

14.—(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 commencement of this Act 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.

SPECIAL PROVISIONS WHERE THE COMPANY IS A HOLDING OR SUBSIDIARY COMPANY.

Modifications of and Additions to Requirements as to Company's own Accounts.

15.—(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 aggregate amount of assets consisting of shares in, or amounts owing (whether on account of a loan or otherwise) from, the company's subsidiaries, distinguishing shares from indebtedness, shall be set out in the balance sheet separately from all the other assets of the company, and the aggregate amount of indebtedness

8TH SCH.
—cont.

(whether on account of a loan or otherwise) to the company's subsidiaries shall be so set out separately from all its other liabilities and—

- (a) the references in Part I of this Schedule to the company's investments shall not include investments in its subsidiaries required by this paragraph to be separately set out ; and
- (b) paragraph 5, sub-paragraph (1) (a) of paragraph 12, and sub-paragraph (2) of paragraph 14 of this Schedule shall not apply in relation to fixed assets consisting of interests in the company's 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 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.

16.—(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.

Consolidated Accounts of Holding Company and Subsidiaries.

17. 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.

8TH SCH.
—cont.

18. 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 this Act as if they were the accounts of an actual company.

19. Sections one hundred and ninety-six and one hundred and ninety-seven of this Act shall not, by virtue of the two last foregoing paragraphs, apply for the purpose of the consolidated accounts.

20. Paragraph 7 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 commencement of this Act.

21. In relation to any subsidiaries of the holding company not dealt with by the consolidated accounts—

- (a) sub-paragraphs (2) and (3) of paragraph 15 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 that paragraph where there are no group accounts, but as if references therein to the holding company's accounts were references to the consolidated accounts.

22. 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 15 of this Schedule where there are no group accounts.

PART III.

EXCEPTIONS FOR SPECIAL CLASSES OF COMPANY.

23.—(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 paragraphs 2 and 3, paragraph 4 (so far as it relates to fixed and current assets), paragraph 8 (except sub-paragraph (1) (d)), paragraphs 9 and 10, and paragraph 11 (except sub-paragraph (8)); and
- (b) as respects its profit and loss account, those of sub-paragraph (1) (h) of paragraph 12, paragraph 13 and sub-paragraphs (1), (4) and (5) of paragraph 14;

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 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.

24.—(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 8 and sub-paragraphs (4) to (7) and sub-paragraph (10) of paragraph 11 of this Schedule :

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.

25.—(1) A company to which this paragraph applies shall not be subject to the following requirements of this Schedule, that is to say—

- (a) as respects its balance sheet, those of paragraph 4 (except so far as the said paragraph relates to fixed and current assets) and paragraphs 5, 6 and 7 ; and
- (b) as respects its profit and loss account, those of sub-paragraph (1) (a), (e) and (f) of paragraph 12 ;

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 Part I

8TH SCH
—cont.

of this Schedule 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.

26. 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 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.

27.—(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 commencement of this Act ; 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.

28. 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.

8TH SCH.
—cont.

NINTH SCHEDULE.

Section 162.

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 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 Eighth 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 Eighth Schedule to this Act are not required to be disclosed

TENTH SCHEDULE

Section 277.

ORDERS IN COURSE OF WINDING UP PRONOUNCED IN VACATION IN SCOTLAND.

PART I.

ORDERS WHICH ARE TO BE FINAL.

Orders under section two hundred and sixty-four as to the time for proving debts and claims.

Orders under section two hundred and sixty-eight as to the attendance of, and production of documents by, persons indebted to, or having property of, or information as to the affairs or property of, a company.

Orders under section three hundred and forty-six as to meetings for ascertaining wishes of creditors or contributories.

Orders under section three hundred and forty-nine as to the examination of witnesses in regard to the property or affairs of a company.

PART II.

ORDERS WHICH ARE TO TAKE EFFECT UNTIL MATTER DISPOSED OF BY INNER HOUSE.

Orders under section two hundred and twenty-six, two hundred and thirty-one, two hundred and fifty-six, three hundred and ninety-seven, four hundred and two or four hundred and three restraining or permitting the commencement or the continuance of legal proceedings.

Orders under subsection (4) of section two hundred and thirty-eight limiting the powers of provisional liquidators.

Orders under section two hundred and forty-two, three hundred and four or three hundred and fourteen appointing a liquidator to fill a vacancy, or appointing (except to fill a vacancy caused by the removal of a liquidator by the court) a liquidator for a winding up voluntarily or subject to supervision.

Orders under section two hundred and forty-five sanctioning the exercise of any power by a liquidator other than the powers specified in paragraphs (c), (d), (e) and (f) of subsection (1).

Orders under section two hundred and fifty-eight requiring the delivery of property or documents to the liquidator.

Orders under section two hundred and seventy-one as to the arrest and detention of an absconding contributory and his property.

Orders under section three hundred and eleven for continuance of winding up subject to supervision.

ELEVENTH SCHEDULE.

Section 315.

PROVISIONS OF THIS ACT WHICH DO NOT APPLY IN THE
CASE OF A WINDING UP SUBJECT TO SUPERVISION OF
THE COURT.

<i>Section.</i>	<i>Subject Matter.</i>
235.	Statement of company's affairs to be submitted to official receiver.
236.	Report by official receiver.
237.	Power of court to appoint liquidators.
238.	Appointment and powers of provisional liquidator.
239.	Appointment, style, &c., of liquidators in England.
240.	Provisions where person other than official receiver is appointed liquidator.
241.	Provisions as to liquidators in Scotland.
242 except subs. (5).	General provisions as to liquidators.
246.	Exercise and control of liquidator's powers in England.
247.	Books to be kept by liquidator in England.
248.	Payments of liquidator in England into bank.
249.	Audit of liquidator's accounts in England.
250.	Control of Board of Trade over liquidators in England.
251.	Release of liquidators in England.
252.	Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.
253.	Constitution and proceedings of committee of inspection.
254.	Powers of Board of Trade in England where no committee of inspection.
255.	Additional powers of committee of inspection in Scotland.
263.	Appointment in England of special manager.
270.	Power in England to order public examination of promoters and officers.
273.	Delegation to liquidator of certain powers of court in England.
368.	Power in England to appoint official receiver as receiver for debenture holders or creditors.

TWELFTH SCHEDULE.

Sections 425,
454.

FEES TO BE PAID TO THE REGISTRAR OF COMPANIES.

PART I.

TABLE OF FEES

<i>Matter in respect of which Fee is payable.</i>	<i>Amount of Fee.</i>
For registration of a company limited by shares.	<p>If the nominal capital does not exceed £2,000, the sum of £2.</p> <p>If the nominal capital exceeds £2,000 but does not exceed £5,000, the sum of £2 with the addition of £1 for each £1,000 or part of £1,000 of nominal capital in excess of £2,000.</p> <p>If the nominal capital exceeds £5,000 but does not exceed £100,000, the sum of £5 with the addition of 5s. for each £1,000 or part of £1,000 of nominal capital in excess of £5,000.</p> <p>If the nominal capital exceeds £100,000, the sum of £28 15s. od. with the addition of 1s. for each £1,000 or part of £1,000 of nominal capital in excess of £100,000.</p>
For registration of a company not having a share capital.	<p>If the number of members stated in the articles does not exceed 25, the sum of £2.</p> <p>If the number of members stated in the articles exceeds 25, but does not exceed 100, the sum of £2 with the addition of £1 for each 25 members or fraction of 25 members in excess of the first 25.</p> <p>If the number of members stated in the articles exceeds 100 but is not stated to be unlimited, the sum of £5 with the addition of 5s. for each 50 members or fraction of 50 members after the first 100.</p> <p>If the number of members is stated in the articles to be unlimited, the sum of £20.</p>
For registration of a company limited by guarantee and having a share capital or an unlimited company having a share capital.	The same amount as would be charged for registration if the company were limited by shares or the same amount as would be so charged if the company had not a share capital, whichever is the higher.

*Matter in respect of
which Fee is payable.*

Amount of Fee.

12TH SCH.
—cont.

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| <p>For registration of an increase in the share capital of any company.</p> | <p>An amount equal to the difference (if any) between the amount which would have been payable on first registration by reference to its capital as increased and the amount which would have been so payable by reference to its capital immediately before the increase.</p> |
| <p>For registration of an increase in the membership of a company limited by guarantee or an unlimited company.</p> | <p>An amount equal to the difference (if any) between the amount which would have been payable on first registration by reference to its membership as increased and the amount which would have been so payable by reference to its membership immediately before the increase.</p> |
| <p>For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act.</p> | <p>The same amount as is charged to registering a new company.</p> |
| <p>For registering any document by this Act required or authorised to be registered or required to be delivered, sent or forwarded to the registrar other than the memorandum or the abstract required to be delivered to the registrar by a receiver or manager, the statement required to be sent to the registrar by the liquidator in a winding up in England or a document required to be delivered under section four hundred and sixteen of this Act.</p> | <p>Five shillings.</p> |
| <p>For making a record of any fact by this Act required or authorised to be recorded by the registrar.</p> | <p>Five shillings.</p> |

PART II.

LIMITATIONS ON OPERATION OF PART I.

1. Where in the case of a company limited by guarantee and having a share capital or an unlimited company having a share capital, 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.

2. The total of the fees payable by any company by reference to its membership shall in no case exceed twenty pounds.

3. 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 fifty pounds.

 THIRTEENTH SCHEDULE.

Sections 433,
454.

FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND INSURANCE COMPANIES AND DEPOSIT, PROVIDENT OR BENEFIT SOCIETIES.

*The share capital of the company is _____, divided into _____ shares of _____ each.
The number of shares issued is _____

Calls to the amount of _____ pounds per share have been made, under which the sum of _____ pounds has been received.

The liabilities of the company on the first day of January (or July) were—

Debts owing to sundry persons by the company.

On judgment, £
On specialty, £
On notes or bills, £
On simple contracts, £
On estimated liabilities, £

The assets of the company on that day were—

Government securities [*stating them*]
Bills of exchange and promissory notes, £
Cash at the bankers, £
Other securities, £

* If the company has no share capital the portion of the statement relating to capital and shares must be omitted.

FOURTEENTH SCHEDULE

Section 435.

PROVISIONS OF THIS ACT APPLIED TO UNREGISTERED COMPANIES.

<i>Subject matter.</i>	<i>Provisions applied.</i>	<i>Limitations on Application.</i>
Prospectuses and allotments.	Sections thirty-seven to forty-six, fifty, fifty-one and fifty-five, and the Fourth Schedule.	To apply so far only as may be specified by regulations made by the Board of Trade and to such bodies corporate as may be so specified.
Annual return ...	Sections one hundred and twenty-four to one hundred and twenty-nine and four hundred and thirty-two, and the Sixth and Seventh Schedules.	Not to apply so as to require particulars in respect of any period before the commencement of this Act, and as respects any period thereafter to apply so far only as may be specified as aforesaid and to such bodies corporate as may be so specified.
Accounts and audit.	Sections one hundred and forty-seven to one hundred and sixty-three, one hundred and ninety-six, one hundred and ninety-seven and four hundred and thirty-three, the Eighth Schedule (except subparagraphs (a) to (d) of paragraph 2, subparagraphs (c), (d) and (e) of paragraph 3 and subparagraph (1)(c) of paragraph 8) and the Ninth Schedule.	To apply so far only as may be specified as aforesaid and to such bodies corporate as may be so specified.
Investigations ...	Sections one hundred and sixty-four to one hundred and seventy-five.	—
Register of directors and secretaries.	Section two hundred.	—
Registration of documents, enforcement and other supplemental matters.	Sections one hundred and ninety-eight, four hundred and twenty-five to four hundred and twenty-eight, four hundred and thirty-six to four hundred and thirty-eight, four hundred and forty to four hundred and forty-six and four hundred and fifty, subsection (1) of section four hundred and fifty-four, section four hundred and fifty-five and the Twelfth and Fifteenth Schedules.	To apply so far only as they have effect in relation to provisions applying by virtue of the foregoing entries in this Schedule.

FIFTEENTH SCHEDULE.

PROVISIONS REFERRED TO IN SECTION 438 OF THIS ACT.

<i>Section or provision of Schedule.</i>	<i>Subject matter.</i>
15.	Conclusiveness of certificate of incorporation.
30.	Statement in lieu of prospectus to be delivered to registrar by company on ceasing to be private company.
38.	Matters to be stated and reports to be set out in prospectus.
48.	Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to registrar.
52.	Return as to allotments.
95.	Registration of charges created by companies registered in England.
96 (1).	Duty of company to register charges created by company.
97.	Duty of company to register charges existing on property acquired.
106.	Application of Part III to charges created, and property subject to charge acquired, by company incorporated outside England.
109.	Restrictions on commencement of business.
125 (except para. (a) of subs. (1)).	Particulars in annual return of company not having a share capital.
128.	Certificates to be sent by private company with annual return.
129 (1).	Certificate of satisfaction of conditions constituting a company an exempt private company.
130.	Statutory meeting and statutory report.
162 (1), (3).	Auditors' report and right to information and explanations.
181.	Restrictions on appointment or advertisement of director.
305.	Notice by liquidator of his appointment.
372 (2).	Abstract of receiver's receipts and payments.
374.	Delivery to registrar of accounts of receivers and managers.
407.	Documents, &c., to be delivered to registrar by oversea companies carrying on business in Great Britain.
409.	Return to be delivered to registrar by oversea company where documents, &c., altered.
410.	Accounts of oversea company.
411.	Obligation to state name of oversea company, whether limited, and country where incorporated.
451.	Annual report by Board of Trade.
Sch. VI, Part I, paras. 2, 4, 6.	Particulars in annual return of company having a share capital.

SIXTEENTH SCHEDULE.

Section 45^b.

AMENDMENTS OF OTHER ACTS.

The Assurance Companies Acts, 1909 to 1946.

1. The Assurance Companies Acts, 1909 to 1946, shall have effect as if—

- (a) for subsection (4) of section two of the Assurance Companies (Winding Up) Act, 1933, as substituted by the Assurance Companies (Winding Up) Act, 1935, there were substituted the following subsection:—

“(4) Where an appointment is made under this section the provisions of sections one hundred and sixty-six and one hundred and sixty-seven of the Companies Act, 1948, shall apply with respect to an inspector appointed under this section in like manner as they apply to an inspector appointed under section one hundred and sixty-four of that Act, and any such refusal as under subsection (3) of the said section one hundred and sixty-seven is, or might be, made the ground of the punishment of an officer or agent of the company or other body corporate whose affairs are investigated by virtue of the said section one hundred and sixty-six, shall also be a ground on which the company may, on the petition of the Board of Trade presented by leave of the court, be wound up by the court in accordance with the provisions of the Companies Act, 1948”; 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 Schedule to the Assurance Companies Act, 1909, extended to the modification, having regard to the provisions of the Eighth Schedule to this Act, of any form set out in the Schedules to either of those Acts.

The Prevention of Fraud (Investments) Act, 1939.

2.—(1) Subsection (2) of section two of the Prevention of Fraud (Investments) Act, 1939, shall have effect as if for paragraphs (b), (c) and (d) thereof there were substituted the following paragraphs:—

“(b) issuing any prospectus to which—

(i) section thirty-eight of the Companies Act, 1948, applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act; or

(ii) section four hundred and seventeen of that Act applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section four hundred and eighteen of that Act;

- (c) issuing any document relating to securities of a corporation incorporated in Great Britain which is not a registered company, being a document which—

(i) would, if the corporation were a registered company, be a prospectus to which section thirty-eight of the

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—cont.

Companies Act, 1948, applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act ; and

(ii) contains all the matters and is issued with the consents which, by virtue of sections four hundred and seventeen and four hundred and nineteen of that Act it would have to contain and be issued with if the corporation were a company incorporated outside Great Britain and the document were a prospectus issued by that company ; and

(d) issuing any form of application for shares in, or debentures of, a corporation together with—

(i) a prospectus which complies with the requirements of section thirty-eight of the Companies Act, 1948, or is not required to comply therewith because excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act, or complies with the requirements of Part X of that Act relating to prospectuses and is not issued in contravention of section four hundred and nineteen of that Act ; or

(ii) in the case of a corporation incorporated in Great Britain which is not a registered company, a document containing all the matters and issued with the consents mentioned in sub-paragraph (ii) of paragraph (c) of this subsection ”.

(2) Subsection (2) of section thirteen of the said Act shall have effect as if for paragraphs (a) and (b) thereof there were substituted the following paragraphs :—

“(a) in relation to any distribution of a prospectus to which section thirty-eight of the Companies Act, 1948, applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act or section four hundred and seventeen of that Act applies or would apply if not excluded by paragraph (b) of subsection (5) of that section or by section four hundred and eighteen of that Act, or in relation to any distribution of a document relating to securities of a corporation incorporated in Great Britain which is not a registered company, being a document which—

(i) would, if the corporation were a registered company, be a prospectus to which the said section thirty-eight applies or would apply if not excluded as aforesaid ; and

(ii) contains all the matters and is issued with the consents which, by virtue of sections four hundred and seventeen and four hundred and nineteen of that Act it would have to contain and be issued with if the corporation were a company incorporated outside Great Britain and the document were a prospectus issued by that company ;

(b) in relation to any issue of a form of application for shares in, or debentures of, a corporation, together with—

(i) a prospectus which complies with the requirements of section thirty-eight of the Companies Act, 1948, or is

not required to comply therewith because excluded by paragraph (b) of subsection (5) of that section or by section thirty-nine of that Act, or complies with the requirements of Part X of that Act relating to prospectuses and is not issued in contravention of section four hundred and nineteen of that Act, or

(ii) in the case of a corporation incorporated in Great Britain which is not a registered company, a document containing all the matters and issued with the consents mentioned in sub-paragraph (ii) of paragraph (a) of this subsection,

or in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures, or ”.

3. Sub-paragraph (iii) of paragraph (a) of subsection (3) of the said section thirteen shall have effect as if for the words “ a subsidiary company as defined by section one hundred and twenty-seven of the Companies Act, 1929 ”, there were substituted the words “ a subsidiary company as defined by section one hundred and fifty-four of the Companies Act, 1948 ”.

The Companies Act, 1947.

4. At the end of section fifty-eight of the Companies Act, 1947, there shall be added the following subsection :—

“ (4) In this section the expression “ director ” includes any person occupying the position of director by whatever name called.”

5.—(1) Subsections (1), (4) and (5) of section one hundred and fifteen of the Companies Act, 1947, shall have effect subject to the amendments respectively set out in sub-paragraphs (2), (3) and (4) of this paragraph.

(2) In subsection (1), for the words “ subsections (1) to (6) of the section of this Act relating to preferential payments in a winding up ” there shall be substituted the words “ section ninety-one of this Act.”

(3) In subsection (4), for the words “ The provisions of this Act relating to a fraudulent preference of a surety or guarantor ”, there shall be substituted the words “ Section ninety-two of this Act ”.

(4) In subsection (5), for the words “ 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 ”, there shall be substituted the words “ Section ninety-nine of this Act ”.

6. In subsection (3) of section one hundred and seventeen of the Companies Act, 1947, for the words from “ and subsections (3) to (6) ” to the end of the subsection there shall be substituted the words “ and section one hundred and sixty-seven of the Companies Act, 1948, subsection (1) of section one hundred and sixty-eight thereof and so much of subsection (2) of that section as relates to forwarding a copy of the inspector’s report to the registered office of the company shall apply in relation to an inspector appointed under this section as they apply in relation to an inspector appointed under section one hundred and sixty-four of that Act, but with the substitution for references to the company or other body corporate and its affairs of references to the manager under the scheme and to the administration of the scheme ”.

SEVENTEENTH SCHEDULE.

ENACTMENTS REPEALED.

PART I.

GENERAL REPEALS.

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Geo. 5. c. 23.	The Companies Act, 1929.	The whole Act.
24 & 25 Geo. 5. c. 23.	The Workmen's Compensation (Coal Mines) Act, 1934.	In section three, in subsection (6), the words from "and (b)" to the end of paragraph (c), and the words "or the company, as the case may be".
25 & 26 Geo. 5. c. 8.	The Unemployment Insurance Act, 1935.	In section twenty, subsection (1).
26 Geo. 5 & 1 Edw. 8. c. 32.	The National Health Insurance Act, 1936.	In section one hundred and seventy-seven, subsection (1).
1 Edw. 8. & 1 Geo. 6. c. 54.	The Finance Act, 1937.	In Part III of the Fifth Schedule, in paragraph 5, the words from "in the winding-up" to "that charge" and the words "and companies".
2 & 3 Geo. 6. c. 57.	The War Risks Insurance Act, 1939.	Section five.
5 & 6 Geo. 6. c. 21.	The Finance Act, 1942.	In section twenty, subsections (2) and (3), and in subsection (4) the words "and the last foregoing subsection shall not apply to a company registered in Scotland".
7 & 8 Geo. 6. c. 15.	The Reinstatement in Civil Employment Act, 1944.	In section eighteen, subsections (2) and (3), and subsection (4) so far as it relates to those subsections.
9 & 10 Geo. 6. c. 62.	The National Insurance (Industrial Injuries) Act, 1946.	In section seventy-one, subsection (1), and in the Ninth Schedule the entry relating to the Companies Act, 1929.
9 & 10 Geo. 6. c. 67.	The National Insurance Act, 1946.	In section fifty-five, subsection (1).
10 & 11 Geo. 6. c. 47.	The Companies Act, 1947.	Sections one to fifty-seven and fifty-nine to ninety. In section ninety-one, subsection (3), in subsection (4) the words "and two hundred and ninety-eight", in subsection (5) the words from "and in relation to" to the end of the subsection, and subsections (7) and (8).

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—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
10 & 11 Geo. 6. c. 47—cont.	The Companies Act, 1947 —cont.	<p>In section ninety-two, subsection one.</p> <p>Sections ninety-three to ninety-eight and one hundred to one hundred and fourteen.</p> <p>In section one hundred and fifteen, in subsection (1), the words "other than a company within the stanaries" and the words from "and also" to the end of the subsection.</p> <p>Sections one hundred and eighteen to one hundred and twenty-one.</p> <p>In section one hundred and twenty-two, in subsection (1), the words from "and, except" to the end of the subsection, and subsections (2) to (7).</p> <p>In section one hundred and twenty-three, in subsection (1), the words from "and this Act" to the end of the subsection, and subsection (3) so far as it relates to Part I of the Ninth Schedule. The First to Eighth Schedules, and Part I of the Ninth Schedule.</p>

PART II.

PROVISIONS OF THE COMPANIES ACT, 1947, REPEALED EXCEPT FOR PURPOSES OF SECTION ONE HUNDRED AND FIFTEEN THEREOF.

*Provision.**Extent of Repeal.*

- Section ninety-one ... The whole section except so far as it has effect for the purposes of subsection (1) of section one hundred and fifteen of the Companies Act, 1947.
- Section ninety-two ... The whole section except as applied by subsection (4) of the said section one hundred and fifteen.
- Section ninety-nine ... The whole section except as applied by subsection (5) of the said section one hundred and fifteen.

Section 459.

EIGHTEENTH SCHEDULE

ENACTMENTS SAVED.

AN ACT TO REGULATE JOINT STOCK BANKS IN ENGLAND.
(7 & 8 Vict. c. 113, s. 47).Existing
companies to
have the power
of suing and
being sued.

Every company of more than six persons established on the sixth day of May, one thousand eight hundred and forty-four, for the purpose of carrying on the trade or business of bankers within the distance of sixty-five miles from London, and not within the provisions of the Act passed in the session of the seventh and eighth years of Queen Victoria, chapter one hundred and thirteen, intituled "An Act to regulate Joint Stock Banks in England," shall have the same powers and privileges of suing and being sued in the name of any one of the public officers of such co-partnership as the nominal plaintiff, petitioner, or defendant on behalf of such co-partnership; and all judgments, decrees, and orders made and obtained in any such suit may be enforced in like manner as is provided with respect to such companies carrying on the said trade or business at any place in England exceeding the distance of sixty-five miles from London under the provisions of the Country Bankers Act, 1826, provided that such first-mentioned company shall make out and deliver from time to time to the Commissioners of Inland Revenue the several accounts or returns required by the last-mentioned Act, and all the provisions of the last-recited Act as to such accounts or returns shall be taken to apply to the accounts or returns so made out and delivered by such first-mentioned companies as if they had been originally included in the provisions of the last-recited Act.

THE JOINT STOCK BANKING COMPANIES ACT, 1857,
PART OF S. 12.Power to form
banking
partnerships of
ten persons

Notwithstanding anything contained in any Act passed in the session holden in the seventh and eighth years of Queen Victoria, chapter one hundred and thirteen, and intituled "An Act to regulate Joint Stock Banks in England," or in any other Act, it shall be lawful for any number of persons, not exceeding ten, to carry on in partnership the business of banking, in the same manner and upon the same conditions in all respects as any company of not more than six persons could before the passing of the Joint Stock Banking Companies Act, 1857, have carried on such business.

CHAPTER 39.*Industrial Assurance and Friendly Societies Act, 1948.*

ARRANGEMENT OF SECTIONS.

*Amendments as to insurances authorised, and as to alienation
of insurance benefits.*

Section.

1. Cesser of powers to insure for funeral expenses.
2. Power to insure life of parent or grandparent for not more than £20 ; and prohibition of alienation of such insurances.
3. Power of friendly society to insure life of spouse of member.
4. Amendments consequential on preceding sections.
5. Amendments as to limitation of benefits from friendly societies.
6. Prohibition of insuring money to be paid on death of a child under ten.
7. Power to extend application of preceding provisions of this Act which are limited to persons resident in Great Britain.

Amendments as to procedure and administration.

8. Premium receipt books.
9. Liability on policies not to be restricted on grounds of health if proposer's knowledge and belief is properly disclosed.
10. Obligations as to delivery of policies and of copies of rules and amendments thereof.
11. Matters to be set out in rules of collecting societies.
12. Matters to be set out in premium receipt books, and to be published.
13. Returns as to industrial assurances.
14. Requirements as to audit of accounts of registered societies.
15. Amendments of registered societies' rules consequential on this Act.
16. Provisions as to offences.

Miscellaneous and general.

17. Protection for members of registered societies joining the forces.
18. Provisions as to payments on deaths in certain circumstances.
19. Provisions as to investment by registered societies and certain other bodies.
20. Change of designation of " public auditors " to " approved auditors " ; and qualification.
21. Repeal of provisions requiring Treasury consent to mode of determination of disputes.
22. Repeal of s. 28 of the Act of 1923.
23. Interpretation.
24. Extent.
25. Short title, citation, construction and repeal.

SCHEDULES :

First Schedule.—Death certificates in connection with payments referred to in subsection (2) of section two.

Second Schedule.—Amendments consequential on sections one to three.

Third Schedule.—Matters to be set out in premium receipt books.

Fourth Schedule.—Women's Auxiliary Services.

Fifth Schedule.—Substituted enactments relating to sums paid without probate or letters of administration.

Sixth Schedule.—Repeals.

An Act to amend the Friendly Societies Acts, 1896 to 1929, and the Industrial Assurance Acts, 1923 to 1929, and to amend provisions corresponding or relating to provisions of those Acts contained in the Industrial and Provident Societies Acts, 1893 to 1928, and other enactments, as to payments on deaths of children, payments on deaths where no grant of probate or administration has been made, investment in savings banks, the designation of auditors appointed thereunder, the mode of determination of disputes and interpretation.

[30th June 1948.]

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 :—

Amendments as to insurances authorised, and as to alienation of insurance benefits.

1. The powers to insure conferred on registered friendly societies and on industrial assurance companies by the following enactments in the Friendly Societies Act, 1896, the Industrial Assurance Act, 1923, and the Industrial Assurance and Friendly Societies Act, 1929 (in this Act referred to respectively as the Act of 1896, the Act of 1923, and the Act of 1929) shall cease to be exercisable at the expiration of one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946, that is to say—

- (a) so much of paragraph (b) of subsection (1) of section eight of the Act of 1896 as relates to insuring money for funeral expenses ;
- (b) section three of the Act of 1923 (which relates to insuring money for funeral expenses) ; and
- (c) section one of the Act of 1929 (which relates to insuring money to be paid on the duration of a life for a specified period, either with or without provision for a payment in the event of a death before the expiration of the period but subject to a limitation of any payment at death to an amount reasonable for funeral expenses) :

Provided that—

- (a) this section shall apply only to insurances where the funeral expenses in question are those, or the life in question is that, of a person who at the time of the proposal is ordinarily resident in Great Britain ; and

Cesser of powers to insure for funeral expenses.
59 & 60 Vict. c. 25.
13 & 14 Geo. 5. c. 8.
19 & 20 Geo. 5. c. 28.
9 & 10 Geo. 6. c. 67.

- (b) nothing in this section shall prejudice any insurance effected in exercise of any of the said powers before the expiration of one year from the day appointed as aforesaid, or any rights or liabilities in respect of any such insurance.

2.—(1) Amongst the purposes for which registered friendly societies and industrial assurance companies may insure shall be included insuring money to be paid to the member (in the case of such a society) or to the person insured (in the case of such a company) on the death of a parent or grandparent of his :

Power to insure life of parent or grandparent for not more than £20; and prohibition of alienation of such insurances.

Provided that this subsection shall apply only where the death in question is that of a person who at the time of the proposal is ordinarily resident in Great Britain.

This subsection, and the next following subsection, shall come into operation at the expiration of one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946.

(2) Such a society or company shall not, in effecting an insurance at any time in exercise of the power conferred by the preceding subsection, insure to be paid to any person on the death of any one of his parents or grandparents any sum which (either taken alone or when added to any sum or sums for the time being insured to be paid to that person on that death under any other relevant insurance or insurances taken out by him) exceeds twenty pounds, and, where an insurance has been effected in exercise of that power, shall not—

- (a) by virtue of or in connection with that insurance, pay to any person any sum which exceeds twenty pounds when taken alone, or
- (b) by virtue of or in connection with that insurance, pay to the person by whom that insurance was taken out any sum which exceeds twenty pounds when added to any sum or sums paid to him, on the death on which money was thereby insured to be paid, by virtue of or in connection with any other relevant insurance taken out by him, or
- (c) if any payment has been made on that death by virtue of or in connection with that insurance to the person by whom it was taken out and has not been repaid, pay to him on that death, by virtue of or in connection with any other relevant insurance taken out by him, any sum which exceeds twenty pounds when added to the amount so paid and not repaid, or when added to it and to any sum or sums paid to him on that death by virtue of or in connection with any other relevant insurance or insurances taken out by him :

Provided that there shall be excluded for the purposes of this subsection any sum insured to be paid, or paid,—

- (i) by way of bonus other than a guaranteed bonus ;
- (ii) by way of repayment of premiums ; or
- (iii) under a free paid-up policy which is in force as such at, or has been applied for or claimed before, the passing of this Act.

(3) The provisions of the First Schedule to this Act shall have effect, from the expiration of one year from the day appointed as aforesaid, as to the production of certificates of death in connection with the making of payments relevant for the purposes of the last preceding subsection.

(4) Where under any relevant insurance money is for the time being insured to be paid to the person by whom the insurance was taken out on the death of a parent or grandparent of his, any assignment or charge made by him after the passing of this Act of or on all or any of the rights in respect of the insurance conferred on him by the policy or by any provision of the Industrial Assurance Acts, 1923 to 1929, or of this Act, and any agreement so made by him to assign or charge all or any of those rights, shall (except in the case of a charge or agreement to charge for the purpose only of securing sums paid for keeping on foot or restoring the insurance) be void, and on any bankruptcy of his where the receiving order or the award of sequestration of his estate was made after the passing of this Act none of those rights shall pass to any trustee or other person acting on behalf of his creditors.

(5) In this section and in the said Schedule the expression "relevant insurance" means an insurance effected by any registered friendly society or industrial assurance company in exercise either of the power conferred by subsection (1) of this section or of any power conferred by section three of the Act of 1923 or section one of the Act of 1929, and references to a payment on a person's death include references to a payment for his funeral expenses.

Power of friendly society to insure life of spouse of member.

3. There shall be added to the objects mentioned in subsection (1) of section eight of the Act of 1896 (which specifies the objects of societies which may be registered as friendly societies) the insuring of money to be paid to the member—

- (a) on the death of the husband or wife of the member ; or
- (b) on the duration for a specified period of the life of the husband or wife of the member, either with or without provision for the payment of money in the event of his or her death before the expiration of that period.

4. There shall be made in the Acts of 1896, 1923 and 1929, the amendments, consequential on the provisions of the three preceding sections, which are set out in the Second Schedule to this Act. Amendments consequential on preceding sections.

5.—(1) In section forty-one of the Act of 1896 (which imposes limits of three hundred pounds, and of fifty-two pounds, respectively on the amount that a member, or person claiming through a member, of a registered friendly society is to be entitled to receive from any one or more such societies by way of gross sum and by way of annuity respectively) five hundred pounds shall be substituted for three hundred pounds, and one hundred and four pounds shall be substituted for fifty-two pounds. Amendments as to limitation of benefits from friendly societies.

(2) In the proviso to subsection (1) of section eight of the Act of 1896 (which provides that a friendly society which contracts with any person for the assurance of an annuity exceeding fifty pounds per annum, or of a gross sum exceeding two hundred pounds, shall not be registered under that Act) one hundred and four pounds shall be substituted for fifty pounds, and five hundred pounds shall be substituted for two hundred pounds.

(3) This section shall not come into operation until an enactment has been passed and come into operation substituting references to five hundred pounds and one hundred and four pounds respectively for the references to three hundred pounds and fifty-two pounds in subsection (1) of section thirty-nine of the Income Tax Act, 1918 (which provides that a registered friendly society which is precluded, by Act of Parliament or by its rules, from assuring to any person a sum exceeding three hundred pounds by way of gross sum, or fifty-two pounds a year by way of annuity, shall be entitled to exemption from tax under Schedules A, C and D). 8 & 9 Geo. 5. c. 40.

6.—(1) A society (whether registered or unregistered), an industrial assurance company, or a trade union (whether registered or unregistered), shall not insure so as to render any sum payable under the insurance on the death of any person at any time before he or she attains the age of ten years, otherwise than by way of repayment of the whole or any part of premiums paid : Prohibition of insuring money to be paid on death of a child under ten.

Provided that—

- (a) this subsection shall not apply in the case of a person born before the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946 ;
- (b) in the case of a person born on or within the year from that day, this subsection shall not apply to a sum payable on his or her death within that year ;

(c) this subsection shall apply only in the case of a person who at the time of the proposal is ordinarily resident in Great Britain ;

and this subsection shall not apply to a sum payable to another person who has an interest in the life of the person on whose death the sum is payable.

(2) The preceding subsection shall have effect in substitution for section sixty-two of the Act of 1896 (which limits amounts that may be insured or paid on the death of a person under ten years of age), both as it applies to societies and as it applies, by virtue of subsection (1) of section four of the Act of 1923, to industrial assurance companies, and, by virtue of section two of the Trade Union Act Amendment Act, 1876, to trade unions ; and sections sixty-three to sixty-six of the Act of 1896 and subsection (2) of section four of the Act of 1923 (which relate to persons to whom, and to conditions on which, payments may be made on the death of a person under ten years of age) shall cease to have effect :

Provided that those enactments (other than the provisions thereof as to the persons to whom payment may be made) shall continue to apply as respects insurances effected before the passing of this Act, or effected thereafter by virtue of paragraph (a), (b) or (c) of the proviso to the preceding subsection, and as respects payments under such insurances.

(3) In subsection (2) of section thirty-nine of the Government Annuities Act, 1929 (which provides that a savings bank insurance may be granted, if the amount does not exceed five pounds, to a person not under the age of eight years) the word "ten" shall be substituted for the word "eight," and paragraph (h) of subsection (2) of section fifty-two of that Act (which requires a payment on the death of a child under ten years of age to be made subject to the provisions of sections sixty-two to sixty-seven of the Act of 1896) is hereby repealed.

7. If provision for the payment of death grants corresponding to the provision therefor made by or under the National Insurance Act, 1946, is made by or under the law of a country or place outside Great Britain, His Majesty shall have power, exercisable by Order in Council a draft whereof shall be laid before Parliament, to provide for extending the application of section one of this Act, subsection (1) of section two thereof, and subsection (1) of section six thereof, subject to any modifications necessitated by differences between any provision made by or under the said Act of 1946 and the corresponding provision, to insurances where the funeral expenses in question are those, or the life or death in question is that, of a person who at the time of the proposal is ordinarily resident in that country or place, and for consequential amendments of provisions of this Act.

39 & 40 Vict.
c. 22.

19 & 20 Geo. 5.
c. 29.

Power to extend application of preceding provisions of this Act which are limited to persons resident in Great Britain.

Amendments as to procedure and administration.

8.—(1) A collecting society, and an industrial assurance company, shall provide premium receipt books for use in respect of policies of industrial assurance issued by the society or company, and shall cause a receipt for each payment in respect of such a policy or of two or more such policies to be inserted in such a book. Premium receipt books.

(2) Regulations may be made by the Commissioner, subject to the approval of the Treasury signified by statutory instrument which shall be subject to annulment in pursuance of resolution of either House of Parliament, with respect to the form of books to be provided as aforesaid and to the use thereof and the insertion of receipts therein, and, without prejudice to the generality of this subsection, regulations made for the purposes thereof may provide for prohibiting or restricting in any prescribed circumstances the use of a single premium receipt book for payments in respect of two or more policies.

9.—(1) Nothing in any term or condition of an industrial assurance policy issued after the passing of this Act or in the law relating to insurance shall operate to except the society or company from liability under such a policy, or to reduce the liability of the society or company under such a policy, on the ground of any matter relating to the state of health of the person upon whose life the assurance is taken out, other than the ground of the proposer's having, when making the proposal or thereafter and before the making of the contract, either— Liability on policies not to be restricted on grounds of health if proposer's knowledge and belief is properly disclosed.

(a) made an untrue statement of his knowledge and belief as regards that matter ; or

(b) failed to disclose to the society or company something known or believed by him as regards that matter.

(2) In relation to a policy issued after the passing of this Act, subsection (4) of section twenty of the Act of 1923 (which relates to misstatements contained in certain proposal forms for industrial assurance policies) shall not apply to a misstatement concerning the state of health of the person upon whose life the assurance is to be taken out.

10.—(1) A collecting society shall supply a member, free of charge, with the following, that is to say— Obligations as to delivery of policies and of copies of rules and amendments thereof.

(a) on his insuring with the society, with a printed policy signed by two of the committee of management and by the secretary, or, if the society has been granted a certificate under section ten of the Act of 1923 exempting it from the requirement imposed by this paragraph to supply a policy, with a copy of the rules of the society ;

(b) on written demand by him if a copy of the rules of the society has not previously been supplied to him, with a copy of the rules of the society ;

(c) on written demand by him if the rules of the society have been amended since he has been supplied with a copy thereof and a copy of the amendment has not previously been supplied to him, with a copy of the amendment ;

and shall, on demand by him and on payment by him of such sum not exceeding one shilling as the society may require, supply a member to whom a copy of the rules of the society has been supplied with a further copy thereof.

(2) Where an amendment of the rules of a collecting society modifies the terms or conditions of any insurance issued by the society by way of increase of premiums or reduction of benefit, the society shall, within two months from the date on which the amendment is registered pursuant to section thirteen of the Act of 1896, either—

- (a) serve every member of the society with a notice containing a statement which, in the opinion of the Commissioner, sufficiently sets forth the effect of the amendment ; or
- (b) publish such a statement by advertisement in two or more of the newspapers in general circulation in every county where the society carries on business.

A member served with a notice under paragraph (a) of this subsection shall be regarded for the purpose of the preceding subsection as if he had been supplied with a copy of the amendment in question.

(3) For the purposes of this section, a policy shall be deemed to be signed by a person if it bears a stamped, printed or lithographed reproduction of his signature placed thereon with his authority.

(4) Section nine of the Act of 1923, and the reference to that section in the First Schedule to that Act, are hereby repealed.

Matters to be set out in rules of collecting societies.

11.—(1) Subsection (3) of section eight of the Act of 1923 (which requires the provisions of that Act mentioned in the First Schedule thereto to be set forth in the rules of collecting societies) shall extend to the following provisions, that is to say—

Subsections (2), (4) and—Insurances on life of parent or
(5) of section two of grandparent : limit on amount,
this Act and prohibition of assignment or
charge

Section eight of this Act —Premium receipt books

Section nine of this Act —Restriction of liability on policies
on ground of health

Subsections (1) and (2) of—Obligations as to delivery of section ten of this Act policies, and of copies of rules and amendments thereof

The First Schedule to—Death certificates in connection this Act with payments referred to in section two (2) of this Act,

and shall have effect, both as regards those provisions and as regards the relevant provisions of the Act of 1923, subject to the modification that the rules may, if the Commissioner consents, in any case, and shall in the case of the provisions of the First Schedule to this Act, in lieu of setting out the provisions in question, contain a statement which, in the opinion of the Commissioner, sufficiently sets forth the effect thereof.

(2) References to the above-mentioned provisions of this Act shall accordingly be inserted in the First Schedule to the Act of 1923.

(3) The requirement imposed by subsection (3) of section eight of the Act of 1923 to set out provisions of that Act in rules shall, in the case of a provision which is amended by this Act, be construed as relating to that provision as so amended.

(4) This section shall come into operation at the expiration of one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946.

12.—(1) Section twenty-one of the Act of 1923 (which requires the provisions of that Act mentioned in the Third Schedule thereto, or a statement setting forth the effect of those provisions, to be set out in policies of industrial assurance), and the said Third Schedule, shall cease to have effect, and subsections (3) and (4) of section three of the Act of 1929 (which require the provisions of that section, or a statement setting forth the effect of those provisions, to be set out in such policies and in premium receipt books) shall cease to have effect so far as they relate to the setting out in policies.

Matters to be set out in premium receipt books, and to be published.

(2) A collecting society, and an industrial assurance company, shall cause to be set out, in every premium receipt book provided by them after the coming into operation of this subsection for use in respect of policies of industrial assurance, the matters specified in the Third Schedule to this Act relating to the provisions mentioned in that Schedule of the Act of 1896, of the Act of 1923 and of this Act and of regulations made for the purposes of section eight of this Act.

(3) The preceding provisions of this section shall come into operation at the expiration of one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946 :

Provided that the last preceding subsection shall not come into operation as respects any regulations made under section

eight of this Act until the expiration of six months from the date on which the regulations come into operation.

(4) A collecting society, and an industrial assurance company, shall, at some time during such period as may be prescribed for the purposes of this subsection by order of the Treasury made by statutory instrument, publish by advertisement in one or more of the newspapers in general circulation in every county where the society or company carries on business a statement approved by the Commissioner as sufficiently setting forth the effect of the provisions of sections one, two and nine of this Act and of subsections (1) and (2) of section ten thereof, and of the effect of subsections (1) and (2) of section six of this Act and of section sixty-two of the Act of 1896 taken together :

Provided that such a society or company shall not be under obligation to comply with the preceding provisions of this subsection as respects any county if arrangements are made between the Commissioner and such societies and companies generally for the general publication by newspaper advertisement of such a statement, and such a statement is in accordance with those arrangements published during the said period in manner approved by the Commissioner as satisfying the purposes of this subsection as respects that county.

Returns as to
industrial
assurances.

13.—(1) A collecting society and an industrial assurance company shall, as respects each year as respects which they are required by the Commissioner in the prescribed manner so to do, send to him within such period as may be prescribed a return giving prescribed particulars as to policies of industrial assurance issued by the society or company which were in force at the beginning of that year, in force at the end of that year, issued during that year or discontinued or converted to free policies during that year.

(2) A requirement under this section may be made either generally as to all such societies or companies, or as to any class thereof, or as to a particular society or company, and the regulations may prescribe different particulars to be given in the case of different societies or companies or classes thereof.

(3) Section sixteen of the Act of 1923 (which authorises the Commissioner to reject returns under the Act of 1896 or the Assurance Companies Act, 1909, which are incomplete or incorrect or do not comply with the requirements of the Act applicable, and to give directions for the variation thereof) shall apply to returns under this section.

(4) In this section the expression " year " means, in relation to a collecting society, a year ending on a thirty-first day of December, and, in relation to an industrial assurance company, a financial year of the company.

9 Edw. 7.
c. 49.

14.—(1) Subject to the provisions of subsection (2) of this section a registered society not being a collecting society shall once at least in every year, beginning with the year nineteen hundred and fifty, submit its accounts for audit to one of the approved auditors appointed under section thirty of the Act of 1896 (as amended by section twenty of this Act) notwithstanding anything in subsection (1) of section twenty-six of that Act (which confers an option to have accounts audited either as aforesaid or by persons appointed in accordance with the rules of the society).

Requirements
as to audit
of accounts
of registered
societies.

(2) The option conferred by the said subsection (1) shall continue to be exercisable to the following extent and subject to the following provisions, that is to say—

- (a) the said option shall be exercisable as respects the year nineteen hundred and fifty in the case of a society whose members numbered less than five hundred on the thirty-first day of December, nineteen hundred and forty-nine, and whose assets were then of an aggregate value less than five thousand pounds, and it shall be exercisable also (but subject to the provisions of the next succeeding paragraph) as respects each subsequent year in the case of a society which has been entitled to exercise the said option as respects all preceding years and which satisfied the conditions aforesaid as to number of members and value of assets on the thirty-first day of December immediately before the beginning of the subsequent year in question ;
- (b) provision may be made at any time or from time to time by regulations for limiting the exercise of the said option as respects any years subsequent to the year nineteen hundred and fifty, and subsequent to that in which the regulations are made, by substituting for the purposes of the preceding paragraph a prescribed number of members and value of assets being less (as to number or value or as to both) than that mentioned in the preceding paragraph or that prescribed by the regulations then last made, as the case may be, and substituting for the reference in the preceding paragraph to the thirty-first day of December, nineteen hundred and forty-nine, a reference to the thirty-first day of December in the year in which the regulations are made, and ultimately for rendering the said option no longer exercisable in the case of any society ; and
- (c) the registrar may give a direction, in the case of any particular society which apart from the direction would be entitled to exercise the said option as respects any year, requiring it to submit its accounts in that year for audit to an approved auditor, and if (as he is hereby

authorised to do) the registrar gives such a direction after the society has sent to him its annual return for the year in question, being a return stating that the audit therefor has been conducted by persons other than an approved auditor, he may also direct that the society shall, after its accounts have been audited by an approved auditor and within three months from receipt of the direction, send to him a further annual return complying with the requirements of section twenty-seven of the Act of 1896 (other than that as to time of sending).

(3) Regulations for the purposes of the preceding subsection shall be made by the chief registrar, subject to the approval of the Treasury signified by statutory instrument which shall be subject to annulment in pursuance of resolution of either House of Parliament.

(4) In subsection (1) of section thirty of the Act of 1896 (which, as amended by section twenty of this Act, after dealing with the appointment of approved auditors and public valuers, provides that their employment shall not be compulsory) the words " but the employment of those auditors and valuers shall not be compulsory " are hereby repealed :

Provided that the said repeal shall not be construed as rendering the employment of an approved auditor or public valuer compulsory in any case in which it would not otherwise be compulsory.

Amendments
of registered
societies'
rules
consequential
on this Act.

15.—(1) The rules of a registered society shall be amended for the purpose of bringing them into conformity with the provisions of this Act, and amendments made for that purpose shall be sent to the registrar within one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946.

(2) If the registrar is satisfied, and certifies, that amendments sent to him within the period required by virtue of the preceding subsection, or within such further time as the registrar may in special circumstances allow, are for the purpose of bringing the rules of a registered society into conformity with the provisions of this Act or for the purpose of enabling the society to exercise any power conferred by this Act, and have been approved by the committee, he may register the amendments notwithstanding that the provisions of the rules of the society as to the alteration of rules or the making of new rules have not been complied with, or (in the case of a friendly society formed and established before the fifteenth day of August, eighteen hundred and fifty) that the rules of the society do not make provision for the alteration thereof, and an amendment registered under this section, shall, unless it is for some other reason invalid, be valid notwithstanding as aforesaid.

16.—(1) Any registered society not being a collecting society which contravenes or fails to comply with any of the provisions of this Act, or of a direction given under section fourteen of this Act, shall be guilty of an offence under the Act of 1896, and, in the case of a contravention of subsection (2) of section two of this Act or of subsection (1) of section six thereof, shall be liable to a fine not exceeding fifty pounds :

Provisions as
to offences.

Provided that such a society shall not be guilty of an offence under the Act of 1896 by reason of its insuring in contravention of subsection (2) of section two of this Act if it is proved that, owing to any false representation on the part of the proposer, the society did not know that the insurance was in contravention of that subsection.

(2) Any collecting society or industrial assurance company which contravenes or fails to comply with any of the provisions of this Act, or of regulations made for the purposes of section eight thereof, shall be guilty of an offence under the Act of 1923 :

Provided that such a society or company shall not be guilty of an offence under the Act of 1923 by reason of its insuring in contravention of subsection (2) of section two of this Act if it is proved that, owing to any false representation on the part of the proposer, the society or company did not know that the insurance was in contravention of that subsection.

(3) Any collector of a collecting society or industrial assurance company, or any other person, who contravenes or fails to comply with any of the provisions of regulations made for the purposes of section eight of this Act affecting such collector or other person shall be guilty of an offence under the Act of 1923.

(4) Any society not being a registered society, and any trade union, which contravenes subsection (1) of section six of this Act shall be guilty of an offence under the Act of 1896 and shall be liable to a fine not exceeding fifty pounds.

(5) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act, summary proceedings for offences under the Act of 1896 may be commenced at any time within one year of the first discovery thereof by the registrar, but not in any case after more than three years from the commission of the offence :

Provided that this subsection shall not apply where the society by or in respect of which, or the person by or in respect of whom, the offence is alleged to have been committed is a collecting society or an officer of such a society (for which cases corresponding provision is made by subsection (5) of section thirty-nine of the Act of 1923).

Miscellaneous and general.

Protection
for members
of registered
societies
joining
the forces.

17.—(1) Any provision in the rules of a registered society which purports to deprive persons of membership of the society or of any interest therein by reason of their service in any of the naval, military or air forces of the Crown (which expression shall for the purposes of this section be treated in the case of a woman as including service in any of the capacities mentioned in the Fourth Schedule to this Act) shall be of no effect, and no person shall be fined for failure to attend any meeting of the society or otherwise to comply with the rules thereof if the failure was due to his or her service as aforesaid.

(2) Section forty-three of the Act of 1896 is hereby repealed.

(3) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to any of the purposes of this section.

Provisions as
to payments
on deaths in
certain
circumstances.

18.—(1) The powers to determine questions of title conferred on a majority of the trustees of a registered society by section fifty-eight of the Act of 1896 (which relates to payment of small sums to which members of registered societies are entitled on the death intestate of such a member) shall be exercisable by the committee of the society in lieu of by a majority of the trustees, and accordingly a reference to the committee shall be substituted for each reference to a majority of the trustees in that section and for the reference thereto in section sixty of the Act of 1896 (which refers to the said section fifty-eight).

9 & 10 Geo. 6.
c. 64.

(2) For bringing into accord with the law relating to estate duty as amended by the Finance Act, 1946, the form of the following enactments, that is to say—

46 & 47 Vict.
c. 47.

(a) section fifty-nine of the Act of 1896,

(b) subsection (2) of section ten of the Provident Nominations and Small Intestacies Act, 1883, and

3 & 4 Geo. 5.
c. 31.

(c) subsection (1) of the section substituted by section six of the Industrial and Provident Societies (Amendment) Act, 1913, for section twenty-eight of the Industrial and Provident Societies Act, 1893,

56 & 57 Vict.
c. 39.

being enactments which make provision as to estate duty on sums paid under those Acts without probate or letters of administration, there shall be substituted for those enactments respectively the enactments set out in paragraphs 1, 2 and 3 respectively of the Fifth Schedule to this Act.

(3) The receipt, or letter or certificate, from the Commissioners of Inland Revenue as to payment of death duties or freedom therefrom required by the following enactments in cases of

payments under nominations by members of societies, and in cases of payments on intestacies of members of societies entitled to sums not exceeding one hundred pounds, shall be required in cases of payments under nominations only where the member's total property in the society exceeds two hundred pounds, and shall cease to be required in cases of payments on such intestacies, and accordingly the following amendments shall be made in those enactments respectively :

The said enactments and the amendments to be made therein are—

- (a) subsection (3) of section fifty-seven of the Act of 1896 (relating to nominations), in which the words "two hundred pounds" shall be substituted for the words "eighty pounds" ;
- (b) subsection (1) of section fifty-eight of the Act of 1896 (relating to intestacies), in which the words from "subject" to the end of the subsection are hereby repealed ;
- (c) subsection (1) of section ten of the Provident Nominations and Small Intestacies Act, 1883 (relating to nominations and to intestacies), in which the words "two hundred pounds" shall be substituted for the words "eighty pounds", and the words "or standing to the credit of any person in any society at his death", and the words "or otherwise" where they occur for the second time, are hereby repealed ;
- (d) subsection (2) of the section substituted by section six of the Industrial and Provident Societies (Amendment) Act, 1913, for section twenty-eight of the Industrial and Provident Societies Act, 1893 (relating to nominations and to intestacies), in which there shall be inserted, after the words "If the principal value of the property or money to be so transferred or paid exceeds eighty pounds", the words "and the transfer or payment is made under the said section twenty-six and the total property of the nominator in the society at his death exceeds two hundred pounds".

19.—(1) The power to invest funds with the National Debt Commissioners conferred on registered societies by paragraph (c) of subsection (1) of section forty-four, and section fifty-two, of the Act of 1896 shall cease to be exercisable.

Provisions as to investment by registered societies and certain other bodies.

(2) The said Commissioners may at any time make payments in or towards repayment of moneys invested with them by such societies, and shall repay all such moneys not later than the twentieth day of November, nineteen hundred and fifty-one,

26 & 27 Vict.
c. 87.

and the provisions of sections twenty-six and twenty-seven of the Trustee Savings Banks Act, 1863 (which, as applied by subsection (4) of section fifty-two of the Act of 1896, impose certain restrictions on such payments) shall cease to have effect as to such payments.

(3) Where the said Commissioners propose to make a payment under this section to a registered society, they shall, by not less than twenty-eight days notice in writing, notify the society of their proposal, specifying the amount and date of the payment proposed, and, if necessary, requiring the society to appoint a person to whom payment may be made.

(4) In accordance with the preceding provisions of this section—

(a) there are hereby repealed paragraph (c) of subsection (1) of section forty-four of the Act of 1896, and, in section fifty-two of that Act, subsections (1) to (3), subsection (4) so far as it relates to sections twenty-six and twenty-seven of the Trustee Savings Banks Act, 1863, and subsections (6) and (9); and

(b) as from such day as may be appointed for the purposes of this provision by order of the Treasury made by statutory instrument, being a day not earlier than the twentieth day of November, nineteen hundred and fifty-one, the enactments specified in Part I of the Sixth Schedule to this Act shall be repealed to the extent specified in the third column of that Part of that Schedule.

(5) It is hereby declared that nothing in section forty-four of the Act of 1896 (which enacts that the trustees of a registered society may invest its funds to any amount in the ways therein mentioned, including investment in the Post Office Savings Bank or in any savings bank certified under the Trustee Savings Banks Act, 1863), or in any of the following sections (which make similar provision as to investment of the funds, money or capital of the bodies therein respectively mentioned), that is to say—

9 Geo. 4.
c. 92.

(a) section twenty-seven of the Savings Bank Act, 1828, and section thirty-two of the Trustee Savings Banks Act, 1863,

22 & 23 Vict.
c. 53.

(b) section one of the Savings Bank (Charitable Societies) Act, 1859,

(c) section thirty-nine of the Industrial and Provident Societies Act, 1893, and

57 & 58 Vict.
c. 47.

(d) section sixteen of the Building Societies Act, 1894,

is to be construed as imposing any obligation on any savings bank authority as respects their or his receiving any such funds, money or capital.

In this subsection the expression "savings bank authority" has the meaning assigned to it by subsection (3) of section ten of the Savings Banks Act, 1920.

10 & 11 Geo. 5.
c. 12.

(6) This section shall extend to Northern Ireland.

20.—(1) The designation of the auditors appointed under section thirty of the Act of 1896, and of the auditors appointed under section seventy-two of the Industrial and Provident Societies Act, 1893, shall be "approved auditors" instead of "public auditors", and accordingly a reference to "an approved auditor" shall be substituted for any reference to "a public auditor" in—

Change of
designation
of "public
auditors" to
"approved
auditors";
and qualifica-
tion.

- (a) the Friendly Societies Acts, 1896 to 1929 ;
- (b) the Industrial Assurance Acts, 1923 to 1929 ;
- (c) the Industrial and Provident Societies Acts, 1893 to 1928 ;
- (d) the Superannuation and other Trust Funds (Interpretation) Regulations, 1928.

(2) No person shall be qualified to be appointed an approved auditor under section thirty of the Act of 1896 or under section seventy-two of the Industrial and Provident Societies Act, 1893, unless he is a member of one or more of the following bodies, that is to say,—

The Institute of Chartered Accountants in England and Wales ;

The Society of Incorporated Accountants and Auditors ;

The Society of Accountants in Edinburgh ;

The Institute of Accountants and Actuaries in Glasgow ;

The Society of Accountants in Aberdeen ;

The Association of Certified and Corporate Accountants ;

The Institute of Chartered Accountants in Ireland :

Provided that—

- (a) the preceding provision shall not affect the qualification of a person who is an approved auditor at the passing of this Act, for the purpose either of his existing appointment or of any subsequent appointment under either of those sections ;
- (b) notwithstanding that provision, where a person who is not such a member or an approved auditor at the passing of this Act was appointed in accordance with the rules of a registered society for the purposes of the audit of the accounts of the society made in the years nineteen hundred and forty-eight and nineteen hundred and forty-nine and in each subsequent year (if any) as respects which the option conferred by section twenty-six

of the Act of 1896 to submit accounts for audit to persons so appointed was exercisable by the society, the Treasury may, if they think fit, appoint him under the said section thirty for the purposes only of audit of the accounts of a society in accordance with whose rules he was appointed as aforesaid ; and

- (c) notwithstanding that provision, the Treasury may, if they think fit, appoint under the said section thirty a person who is not such a member or an approved auditor at the passing of this Act, if they are satisfied that it is necessary for them to do so for giving effect to the purposes of section fourteen of this Act.

Repeal of provisions requiring Treasury consent to mode of determination of disputes.

21. The provisions of subsection (3) of section sixty-eight of the Act of 1896, and of subsection (2) of section forty-nine of the Industrial and Provident Societies Act, 1893, which require the consent of the Treasury for the determination as therein mentioned of certain disputes shall cease to have effect, and accordingly there are hereby repealed—

- (a) in the said subsections respectively, the words “ with the consent of the Treasury ” ; and
- (b) in subsection (1) of section thirty-two of the Act of 1923, the words “ and the consent of the Treasury to his dealing therewith had been given ”.

Repeal of s. 28 of the Act of 1923. 4 & 5 Geo. 5. c. 78.

22. Section twenty-eight of the Act of 1923 (which relates to policies to which the Courts (Emergency Powers) Act, 1914, applied), and the reference to that section in the First Schedule to the Act of 1923, are hereby repealed.

Interpretation.

23.—(1) In this Act, except where the context otherwise requires,—

- (a) the expression “ society ” means a society for any of the purposes specified in section eight of the Act of 1896, the expression “ registered society ” means a society registered under that Act, and references to a society or to a registered society or to a registered friendly society include references to a branch of such a society ;
- (b) the expression “ policy ” includes any contract of assurance, and for the purposes of this Act the date of the making of any such contract shall be deemed to be the date of the issue of a policy ;
- (c) the expression “ proposal ” in relation to an insurance, includes an application for an insurance, and the expression “ proposer ” shall be construed accordingly ; and
- (d) the expression “ trade union ” means a trade union within the meaning of the Trade Union Act, 1913.

2 & 3 Geo. 5. c. 30.

(2) In this Act the expression "parent" includes a stepfather and a stepmother.

(3) It is hereby declared that the provision made by subsection (5) of section five of the Adoption of Children Act, 1926, and by subsection (6) of section five of the Adoption of Children (Scotland) Act, 1930, that the adopter of a child shall be deemed to be the parent of the child for the purposes of enactments relating to friendly societies, collecting societies and industrial assurance companies, applies for all the purposes of any enactment so relating, whether passed before or after the commencement of the said Act of 1926 or of the said Act of 1930, as the case may be, and including this Act. 16 & 17 Geo. 5.
c. 29.
20 & 21 Geo. 5.
c. 37.

24.—(1) This Act shall extend to Great Britain, the Isle of Man and the Channel Islands. Extent.

(2) Except as regards subsection (3) of section seventeen thereof and section nineteen thereof, this Act shall not extend to Northern Ireland.

25.—(1) This Act may be cited as the Industrial Assurance and Friendly Societies Act, 1948. Short title,
citation,
construction

(2) This Act and the Industrial Assurance Acts, 1923 to 1929, may be cited together as the Industrial Assurance Acts, 1923 to 1948, and this Act and the Friendly Societies Acts, 1896 to 1929, may be cited together as the Friendly Societies Acts, 1896 to 1948. and repeal.

(3) References in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

(4) This Act, in its application to collecting societies and industrial assurance companies, shall be construed as one with the Industrial Assurance Acts, 1923 to 1929, and in its application to friendly societies, not being collecting societies, shall be construed as one with the Friendly Societies Acts, 1896 to 1929.

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

SCHEDULES.

Section 2.

FIRST SCHEDULE.

DEATH CERTIFICATES IN CONNECTION WITH PAYMENTS REFERRED TO
IN SUBSECTION (2) OF SECTION TWO.

1. A registered friendly society or industrial assurance company shall not, by virtue of or in connection with any relevant insurance of money to be paid on the death of a parent or grandparent of the person by whom the insurance was taken out, pay to that person on the death any sum not excluded for the purposes of subsection (2) of section two of this Act by the proviso thereto, except upon production of a certificate of the death for the purposes of this Schedule stated therein to be issued to the person to whom the payment is made, unless the death occurred outside Great Britain.

2. On so making payment of any such sum the society or company shall cause to be indorsed on the certificate a statement showing—

- (a) the name of the society or company ;
- (b) the amount of any such sum paid ; and
- (c) the date of the contract for the insurance ;

and on receiving any repayment of a sum so paid by virtue of or in connection with an insurance effected in exercise of the power conferred by subsection (1) of section two of this Act the society or company shall cause to be indorsed on the certificate a statement showing the repayment.

3. Where such a society or company is charged with a contravention of subsection (2) of section two of this Act in respect of the payment by the society or company of a sum which exceeded the limit of twenty pounds imposed by paragraph (b) or (c) of that subsection in consequence of the addition as thereby required of another sum paid by another such society or company, or of two or more other sums so paid, and which would not have exceeded that limit apart from such addition, it shall be a defence for the society or company charged to prove—

- (a) that the sum in respect of which they are charged was paid in accordance with paragraph 1 of this Schedule ; and
- (b) that the certificate produced disclosed no payment by any other society or company of any sum or sums required by the said paragraph (b) or (c) to be added, or disclosed such payment but only to an amount insufficient to cause the sum in respect of which they are charged to exceed the said limit ;

subject however in the case of a certificate which is a duplicate to the provisions of paragraph 6 of this Schedule.

4. Certificates of death for the purposes of this Schedule, and applications for the issue thereof, shall be in such form as may from time to time be specified by the Registrar General, including, in the case of such a certificate, a statement that it is issued for the purposes of this Schedule, and particulars of the name and address of the person to whom the certificate is issued, and of his relationship (whether child, grandchild or stepchild) to the deceased, as stated in the application.

1ST SCH.
—cont.

5.—(1) Regulations shall be made by the Registrar General by statutory instrument as to the issue of certificates for the purposes of this Schedule, and the regulations shall provide for securing that, except as mentioned in sub-paragraph (2) of this paragraph, more than one certificate for the purposes of this Schedule of the same death shall not be issued to the same person.

(2) The said regulations shall provide for the issue to a person to whom a certificate of a death for the purposes of this Schedule has been issued of a duplicate thereof in the event of the loss or destruction of the certificate which it replaces, subject to conditions for requiring—

- (a) the making by that person of a statutory declaration stating that the certificate which the duplicate replaces has been lost or destroyed, and stating whether any indorsement had been made on that certificate, and, if so, by what society or company ;
- (b) if it is so stated that an indorsement had been made on that certificate by any society or company, the recording on the duplicate of a requirement that it is to be produced to that society or company for having the indorsement repeated on the duplicate ; and
- (c) the surrender for destruction of the certificate which the duplicate replaces in the event of its being recovered.

6. On production to a society or company of a duplicate which records a requirement for an indorsement made by them to be repeated as mentioned in the last preceding paragraph, the society or company shall cause the duplicate to be indorsed accordingly, and paragraph 3 of this Schedule shall not apply in the case of a certificate which is a duplicate whereon such a requirement is recorded unless the duplicate has been indorsed by the society or company in question.

7. The fee payable on the issue of a certificate of a death for the purposes of this Schedule shall be one shilling.

8. The Statutory Instruments Act, 1946, shall apply to a statutory instrument containing regulations made for the purposes of this Schedule in like manner as if it had been made by a Minister of the Crown. <sup>9 & 10 Geo. 6.
c. 36.</sup>

9. In this Schedule the expression " Registrar General " means the Registrar General of births, deaths and marriages :

Provided that in the application of this Schedule to Scotland the said expression means the Registrar General of births, deaths and marriages in Scotland.

Section 4.

SECOND SCHEDULE.

AMENDMENTS CONSEQUENTIAL ON SECTIONS ONE TO THREE.

Enactment to be amended.	Amendment.	Provisions of this Act on which amendment is consequential.
<p>The Friendly Societies Act, 1896 (59 & 60 Vict. c. 25) :— Section eight, subsection (1), paragraph (b).</p> <p>Section eight, subsection (1).</p>	<p>After " on the death of a member " add " or of the husband or wife of a member, or (subject to the provisions of section two of the Industrial Assurance and Friendly Societies Act, 1948) of a parent or grandparent of a member ".</p> <p>For " or for the funeral expenses " substitute " or (subject to the provisions of section one of the Industrial Assurance and Friendly Societies Act, 1948) for the funeral expenses ".</p> <p>After paragraph (d) insert the following paragraph— " (dd) insuring money to be paid to the member on the duration for a specified period of the life of the member or of the husband or wife of the member, either with or without provision for the payment of money in the event of his or her death before the expiration of that period ; or ".</p>	<p>Section two. Section three.</p> <p>Section one.</p> <p>Section three.</p>
<p>The Industrial Assurance Act, 1923 (13 & 14 Geo. 5. c. 8) :— Section three ...</p> <p>Section twenty, subsection (1).</p>	<p>At the beginning add " Subject to the provisions of sections one and two of the Industrial Assurance and Friendly Societies Act, 1948 ".</p> <p>At the expiration of one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946, substitute for paragraph (b) the following paragraph— " (b) where the policy assures a payment of money on</p>	<p>Section one. Section two.</p> <p>Section one. Section two.</p>

Enactment to be amended.	Amendment.	Provisions of this Act on which amendment is consequential.
<p>The Industrial Assurance Act, 1923 (13 & 14 Geo. 5. c. 8): —<i>cont.</i> Section twenty, subsection (1) —<i>cont.</i></p>	<p>the death of a parent or grandparent and is effected in exercise of the power conferred by subsection (1) of section two of the Industrial Assurance and Friendly Societies Act, 1948; or ”.</p>	
<p>The Industrial Assurance and Friendly Societies Act, 1929 (19 & 20 Geo. 5. c. 28):— Section one, subsection (1).</p>	<p>At the beginning add “ Subject to the provisions of sections one and two of the Industrial Assurance and Friendly Societies Act, 1948 ”.</p>	<p>Section one. Section two.</p>

2ND SCH.
—*cont.*

THIRD SCHEDULE.

Section 12

MATTERS TO BE SET OUT IN PREMIUM RECEIPT BOOKS.

The matters to be set out in premium receipt books under section twelve of this Act are the following, that is to say—

- (a) As to the following provisions of the Act of 1923, either those provisions (as amended by this Act in the case of a provision which is amended thereby), or, as to any of them as to which the Commissioner consents to the substitution of a statement which in his opinion sufficiently sets forth the effect thereof, such a statement—

Subsection (4) of section 20.	Provisions as to proposals for policies.
Section 22 ...	... Return of policies and premium receipt books after inspection.
Section 23 ...	... Notice before forfeiture.
Section 24 ...	... Provisions as to forfeited policies.
Section 27 ...	... Payment of claims.
Section 32 ...	... Disputes.
Section 41 ...	... Notices.

3RD SCH.
—cont.

(b) As to the following provisions of this Act and of regulations, either those provisions, or, as to any of them as to which the Commissioner consents to the substitution of a statement which in his opinion sufficiently sets forth the effect thereof, such a statement—

Subsections (2), (4) and (5) of section 2. Insurances on life of parent or grandparent: limit on amount, and prohibition of assignment or charge.

Section 8 and regulations made for the purposes thereof. Premium receipt books.

Section 9 Restriction of liability on policies on ground of health.

Subsections (1) and (2) of section 10 (in the case of collecting societies only). Obligations as to delivery of policies, and of copies of rules and amendments thereof.

(c) As to the following provisions of the Act of 1896 and of this Act, a statement which in the opinion of the Commissioner sufficiently sets forth the effect thereof—

Subsections (1) and (2) of section 6 of this Act and section 62 of the Act of 1896 taken together. Payments on deaths of children under ten years of age.

The First Schedule to this Act. Death certificates in connection with payments referred to in section 2 (2) of this Act.

Section 17.

FOURTH SCHEDULE.

WOMEN'S AUXILIARY SERVICES.

1. Member of Queen Alexandra's Royal Naval Nursing Service or any reserve thereof.

2. Member of the Women's Royal Naval Service.

3. Woman medical or dental practitioner serving in the Royal Navy or any naval reserve.

4. Member of Queen Alexandra's Imperial Military Nursing Service or any reserve thereof.

5. Member of the Territorial Army Nursing Service or any reserve thereof.

6. Member of the Auxiliary Territorial Service.

7. Woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer.

8. Member of Princess Mary's Royal Air Force Nursing Service or any reserve thereof.

9. Member of the Women's Auxiliary Air Force.
10. Woman employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer.
11. Member of the Voluntary Aid Detachments employed under the Admiralty, Army Council or Air Council.

4TH SCH.
—cont.

FIFTH SCHEDULE.

Section 18.

SUBSTITUTED ENACTMENTS RELATING TO SUMS PAID WITHOUT
PROBATE OR LETTERS OF ADMINISTRATION.

1. For section fifty-nine of the Act of 1896 there shall be substituted the following section :—

“ 59. Before any sum is paid under this Act without probate or letters of administration on the death of any person entitled to make a nomination under this Act, the committee of the registered society or branch may require a statutory declaration by the claimant, or by one of the claimants, that the principal value of the estate of the deceased, including the sum in question, does not after deduction of debts and funeral expenses exceed one hundred pounds.”

2. For subsection (2) of section ten of the Provident Nominations and Small Intestacies Act, 1883, there shall be substituted the following subsection :—

“ (2) The directors may, before paying any sum under this Act without probate or letters of administration on the death of any person entitled to make a nomination under this Act or the Acts hereby amended, require a statutory declaration by the claimant, or by one of the claimants, that the principal value of the estate of the deceased, including the sum in question, does not after deduction of debts and funeral expenses exceed one hundred pounds.”

3. For subsection (1) of the section substituted by section six of the Industrial and Provident Societies (Amendment) Act, 1913, for section twenty-eight of the Industrial and Provident Societies Act, 1893, there shall be substituted the following subsection :—

“ (1) The committee of a registered society may, before transferring any property or paying any money under section twenty-five, twenty-six or twenty-seven of this Act without probate or letters of administration on the death of any member, require a statutory declaration by the claimant or one of the claimants that the principal value of the estate of the deceased member, including the property or money in question, does not after deduction of debts and funeral expenses exceed one hundred pounds.”

Sections 19, 25.

SIXTH SCHEDULE.

REPEALS.

PART I.

ENACTMENTS REPEALED FROM DAY APPOINTED UNDER S. 19 (4) (b)

Session and Chapter.	Short Title.	Extent of Repeal.
23 & 24 Vict. c. 137.	The National Debt Commissioners (Investments) Act, 1860.	The whole Act so far as it relates to friendly societies.
40 & 41 Vict. c. 13.	The Customs, Inland Revenue and Savings Banks Act, 1877.	Section sixteen and subsection (3) of section seventeen.
45 & 46 Vict. c. 72.	The Revenue, Friendly Societies and National Debt Act, 1882.	Section twenty-one.
50 & 51 Vict. c. 16.	The National Debt and Local Loans Act, 1887.	Section five.
59 & 60 Vict. c. 25.	The Friendly Societies Act, 1896.	In section fifty-two, subsection (4) (so far as it relates to sections of the Trustee Savings Bank Act, 1863, other than sections twenty-six and twenty-seven thereof) and subsections (5), (7) and (8).
3 Edw. 7. c. 46	The Revenue Act, 1903 ...	Section sixteen, so far as it relates to drafts of a friendly society.
19 & 20 Geo. 5. c. 27.	The Savings Banks Act, 1929.	Section seventeen so far as it relates to friendly societies.

PART II.

ENACTMENTS REPEALED FROM THE PASSING OF THIS ACT
OR OTHER DATE SPECIFIED IN THIS PART.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 47.	The Provident Nominations and Small Intestacies Act, 1883.	In section ten, in subsection (1), the words "or standing to the credit of any person in any society at his death", and the words "or otherwise", where they occur for the second time.
56 & 57 Vict. c. 39.	The Industrial and Provident Societies Act, 1893.	In section forty-nine, in subsection (2), the words "with the consent of the Treasury".

Session and Chapter.	Short Title.	Extent of Repeal.
59 & 60 Vict. c. 25.	The Friendly Societies Act, 1896.	<p>In section thirty, in subsection (1), the words "but the employment of those auditors and valuers shall not be compulsory".</p> <p>Section forty-three.</p> <p>In section forty-four, in subsection (1), paragraph (c).</p> <p>In section fifty-two, subsections (1) to (3), subsection (4) (so far as it relates to sections twenty-six and twenty-seven of the Trustees Savings Banks Act, 1863), and subsections (6) and (9).</p> <p>In section fifty-eight, in subsection (1), the words from "subject" to the end of the subsection.</p> <p>In section sixty-three, the words "to the parent of the child, or to the personal representative of the parent, and", and the words "by the parent or his personal representative".</p> <p>In section sixty-eight, in subsection (3), the words "with the consent of the Treasury".</p>
13 & 14 Geo. 5. c. 8.	The Industrial Assurance Act, 1923.	<p>In section four, in subsection (2), the words from "except to the person" to "that person, nor", and the proviso.</p> <p>Section nine.</p> <p>As from the expiration of one year from the day appointed for the coming into operation of section twenty-two of the National Insurance Act, 1946, section twenty-one.</p> <p>Section twenty-eight.</p> <p>In section thirty-two, in subsection (1), the words "and the consent of the Treasury to his dealing therewith had been given".</p> <p>In the First Schedule, the references to sections nine and twenty-eight.</p>

6TH SCH.
—*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
13 & 14 Geo. 5. c. 8.— <i>cont.</i>	The Industrial Assurance Act, 1923.— <i>cont.</i>	As from the expiration of one year from the day so appointed, the Third Schedule.
19 & 20 Geo. 5. c. 28.	The Industrial Assurance and Friendly Societies Act, 1929.	As from the expiration of one year from the day so appointed, in section three, in subsection (3), the words "every policy to which this section applies and" and the words "policy or", and, in subsection (4), the words "policy or" and the words "or if any policy is issued in contravention of the said provisions".
19 & 20 Geo. 5. c. 29.	The Government Annuities Act, 1929.	In section fifty-two, in subsection (2), the word "and" at the end of paragraph (g) and paragraph (h).

CHAPTER 40.

Education (Miscellaneous Provisions) Act, 1948.

ARRANGEMENT OF SECTIONS

Section.

1. Provisions as to transfer of powers conferred by the Charitable Trusts Acts, etc.
2. Extension of the Endowed Schools Acts to education generally in lieu of education of boys and girls, and to modern endowments.
3. Allocation between primary and secondary education of children between ten and a half and twelve years old.
4. Provisions as to pupils becoming registered pupils at, and being withdrawn from, schools.
5. Amendment and consolidation of enactments as to provision of clothing.
6. Recoupment to local education authority of cost of providing education for persons not belonging to their area.
7. Amendments as to modifying the requirement of conformity to prescribed standards as to premises of schools.

Section.

8. Cancellation of report that a child is incapable of receiving education at school owing to disability of mind.
9. Presumption of age in proceedings to enforce attendance at school.
10. Provisions as to power of local education authorities to acquire land by agreement.
11. Miscellaneous amendments and repeals.
12. Provisions as to regulations.
13. Expenses.
14. Short title, citation, construction and extent.

SCHEDULES.

- First Schedule.—Minor and consequential amendments.
Second Schedule.—Repeals.

An Act to amend the Education Acts, 1944 and 1946, the Endowed Schools Acts, 1869 to 1908, the provisions of the Mental Deficiency Act, 1913, as to children incapable of receiving education, and the provision of the Children and Young Persons Act, 1933, as to the minimum age of employment.

[30th June 1948.]

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) Powers conferred by the Charitable Trusts Acts, 1853 to 1939, or other enactments, and vested for the time being in the Charity Commissioners as respects endowments or trusts of any class other than the educational endowments and trusts mentioned in the Orders in Council made under the Board of Education Act, 1899 (which, as respects those educational endowments and trusts, effected a general transfer to the Minister's predecessor of powers then vested in the said Commissioners) may by Order in Council be transferred to the Minister, or be made exercisable by him, as respects all or any endowments or trusts of any such other class as aforesaid, in so far as it appears to His Majesty in Council to be expedient so to provide having regard to the relation between the purposes of the endowments or trusts to be dealt with by the Order and the purposes of endowments or trusts as respects which the same or associated powers are already vested in or exercisable by the Minister by virtue of the said Act of 1899.

Provisions as to transfer of powers conferred by the Charitable Trusts Acts, etc.
62 & 63
Vict. c. 33.

(2) If it appears to His Majesty in Council to be expedient that any powers formerly vested in the Charity Commissioners as respects all or any endowments or trusts of any class, and for the time being vested as respects them in the Minister, should as respects them cease to be vested in him and be vested in the

said Commissioners, he may by Order in Council make provision accordingly.

(3) An Order in Council made under this section may be varied or revoked by a subsequent Order in Council.

(4) A draft of any Order in Council under this section shall be laid before Parliament.

(5) The Orders in Council made under the Board of Education Act, 1899, shall continue in operation, subject to the provisions of subsection (2) of this section.

(6) The preceding provisions of this section shall be in substitution for subsection (2) of section two of the Education Act, 1944 (in this Act referred to as "the principal Act").

7 & 8 Geo. 6.
c.31.

Extension of
the Endowed
Schools Acts
to education
generally
in lieu of
education of
boys and girls,
and to modern
endowments.

2.—(1) Subject to the provisions of subsections (5) and (6) of this section, the Endowed Schools Acts, 1869 to 1908 (which confer powers as respects educational endowments by schemes made thereunder to alter or add to existing trusts and to make new trusts and to consolidate or divide endowments) shall have effect subject to the amendments thereof specified in this section, and to the consequential and minor amendments thereof specified in the First Schedule to this Act.

(2) The endowments to which the said Acts apply as educational endowments shall comprise endowments for any educational purposes in lieu of being confined to endowments for the purposes of education at school of boys and girls or of exhibitions.

(3) Any limitation on the power to make schemes under the said Acts imposed thereby, whether expressly or by implication, by reference to the time of the giving of an endowment or part of an endowment, including the requirement imposed by paragraph (1) of section fourteen of the Endowed Schools Act, 1869, of assent of the governing body of an endowment to a scheme where the original gift was less than fifty years before the commencement of that Act, shall cease to have effect, and the said power shall extend to endowments and parts of endowments whenever given, whether before or after the commencement of that Act or of this Act, so however that such assent as is mentioned in the said paragraph (1) shall be required for the making of a scheme as to an endowment or part of an endowment given as mentioned in that paragraph less than fifty years before the time of the making of the scheme.

(4) In accordance with the last preceding subsection, references to the time of the making of a scheme shall be substituted for the references to the commencement, or to the passing, of the said Act of 1869, or to the first day of January, 1869, in that Act and in sections seven and eight of the Endowed Schools Act, 1873 :

Provided that this subsection shall not have effect as to the reference to the passing of the said Act of 1869 in section fifty-five of that Act (which provides against the acquisition after the passing of that Act of vested interests in endowments).

(5) No provision shall be made by a scheme as to, or as to the governing body of, an endowment which constitutes or forms part of the endowment of—

(a) a university; a university college or a college of a university, or

(b) a school not maintained by a local education authority, other than such provision, if any, as could have been made, if the amendments of the said Acts of 1869 to 1908 specified in this section and in the First Schedule to this Act had not been enacted.

For the purposes of this subsection—

(i) the expression “college of a university” includes, in the case of a university organised on a collegiate basis, a constituent college or other society recognised by the university, and, in the case of London University, a college incorporated in the university or a school of the university;

(ii) the reference to the endowment of a university, college or school shall be construed as including a reference to any endowment which, or the income whereof, is applicable solely for the purposes of education of persons at the university, college or school or for purposes ancillary thereto.

(6) No provision shall be made by a scheme as to, or as to the governing body of, an endowment which, or the income whereof, is applicable solely or mainly for the purposes of education for imparting professional skill or learning, unless the governing body of the endowment assent to the scheme.

(7) The Welsh Intermediate Education Act, 1889, shall cease to have effect. 52 & 53
Vict. c. 40.

3.—(1) The definitions of primary and secondary education in subsection (1) of section eight of the principal Act shall be amended in accordance with the provisions of this section. Allocation
between
primary and
secondary
education of
children
between ten
and a half
and twelve
years old.

(2) In paragraph (a) of the said subsection (1), which defines primary education, for the words “primary education, that is to say, full-time education suitable to the requirements of junior pupils”, there shall be substituted the words “primary education, that is to say, full-time education suitable to the requirements of junior pupils who have not attained the age of ten years and six months, and full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils who have not attained that age”.

(3) At the end of paragraph (b) of the said subsection (1), which defines secondary education, there shall be inserted the words “and full-time education suitable to the requirements of

junior pupils who have attained the age of ten years and six months and whom it is expedient to educate together with senior pupils ”.

Provisions as to pupils becoming registered pupils at, and being withdrawn from, schools.

4.—(1) A local education authority shall have power to make arrangements with respect to a primary school maintained by them, not being a school which is for the time being organised for the provision of both primary and secondary education, under which any junior pupils who have attained the age of ten years and six months and who are registered pupils at the school may be required to be withdrawn therefrom for the purpose of receiving secondary education.

(2) The provision of section eight of the principal Act which renders it the duty of every local education authority to secure that there shall be available for their area sufficient schools for providing primary and secondary education shall not be construed as imposing any obligation on proprietors of schools to admit children as registered pupils otherwise than at the beginning of a school term, except as regards admission at a school during the currency of a school term of a child who was prevented from entering the school at the beginning of the term—

- (a) by his being ill or by other circumstances beyond his parent's control; or
- (b) by his parent's having been then resident at a place whence the school was not accessible with reasonable facility;

and, notwithstanding anything in section thirty-six of the principal Act, the parent of a child shall not be under any duty to cause him to receive full-time education during any period during which, having regard to the preceding provisions of this subsection, it is not practicable for the parent to arrange for him to become a registered pupil at a school.

(3) In cases not falling within the exception mentioned in the last preceding subsection, the managers or governors of schools maintained by a local education authority shall comply, as respects the time of admission of children as registered pupils, with any general directions given by the authority in that behalf.

(4) In subsection (1) of section eighty of the principal Act (which requires the proprietor of every school to cause a register to be kept containing particulars of all persons of compulsory school age who are pupils at the school), the words “ of compulsory school age ” are hereby repealed.

(5) Subsection (3) of the said section eighty (which requires regulations to be made as to the procedure by which children may become registered pupils at a school, and may be withdrawn from a school) shall cease to have effect.

(6) The regulations made under the said section eighty shall prescribe the grounds on which names are to be deleted from a

register kept thereunder, and the name of a person entered in such a register as a registered pupil shall be deleted therefrom when occasion arises on some one or other of the prescribed grounds and shall not be deleted therefrom on any other ground.

5.—(1) A local education authority may provide clothing— Amendment
and
consolidation
of enactments
as to provision
of clothing.

(a) for any pupil who is a boarder at any educational institution maintained by the authority ;

(b) for any pupil at a nursery school so maintained ; or

(c) for any pupil in a nursery class at any school so maintained.

(2) Where it appears to a local education authority that—

(a) a pupil not falling within the preceding subsection at a school maintained by them, or

(b) a pupil not falling within the preceding subsection at a special school whether maintained by them or not,

is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided at the school, the authority may provide him with such clothing as in the opinion of the authority is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school.

(3) The Minister may make regulations empowering a local education authority to provide—

(a) for pupils at a school maintained by them, or at a county college or other establishment for further education so maintained, and

(b) for persons who make use of facilities for physical training made available for them by the authority under subsection (1) of section fifty-three of the principal Act,

such articles of clothing as may be prescribed suitable for the physical training provided at the school, college or other establishment, or under the facilities so made available.

(4) A local education authority may, with the consent of the proprietor of a school not maintained by the authority other than a special school, and upon such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school, make arrangements for securing, for any pupil at the school who is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided at the school, the provision of such clothing as is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school :

Provided that any arrangements made under this subsection shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with the provision of any article under the arrangements shall not exceed the expense

which would have been incurred by them in the provision thereof if the pupil had been a pupil at a school maintained by them.

(5) Provision of clothing under any of the powers conferred by this section may be made in such way as to confer either a right of property in the clothing or a right of user only, at the option of the providing authority except in any circumstances for which the adoption of one or other way of making such provision is prescribed.

(6) Where a local education authority have, under the powers conferred by this section, provided a person with clothing, then, in such circumstances respectively as may be prescribed—

- (a) the authority shall be under obligation to require the parent to pay to them in respect thereof such sum, if any, as in the opinion of the authority he is able without financial hardship to pay, not exceeding the cost to the authority of the provision ;
- (b) the authority shall have power to require the parent to pay to them in respect thereof such sums as aforesaid or any less sums ; or
- (c) the parent shall not be required to pay any sum in respect thereof.

Any sum which a parent is duly required to pay by virtue of paragraph (a) or (b) of this subsection may be recovered summarily as a civil debt.

(7) The preceding provisions of this section shall be in substitution for the provisions of the Education Acts, 1944 and 1946, relating to the provision of clothing.

6.—(1) Where any provision for primary or secondary education is made by a local education authority in respect of a pupil who does not belong to their area, they shall be entitled to recoupment of an amount equal to the cost to them of the provision—

- (a) if the pupil belongs to the area of another such authority, from that authority, the amount in that case being determined by agreement between the authorities, or, in default of agreement, by the Minister, or
- (b) if the pupil is one not belonging to the area of any local education authority, in accordance with regulations to be made by the Minister for securing that the cost of such provision in such cases is apportioned amongst all local education authorities, the amount in that case being determined in accordance with the regulations,

subject in either case to the providing authority's making a claim in that behalf within the prescribed period :

Provided that in a case falling within paragraph (a) of this subsection, if the Minister is satisfied that the other authority

Recoupment to local education authority of cost of providing education for persons not belonging to their area.

ought not to be required to make recoupment in respect of the provision having regard to availability of provision of the kind in question under arrangements made by them and to all other circumstances of the case, he may, on their application, direct that the providing authority shall not be entitled to recoupment in respect thereof.

(2) For the purposes of this Act, a pupil shall be treated as belonging to the area of a particular local education authority, or as not belonging to the area of any such authority, in accordance with the following rule, namely—

- (a) in the normal case, that is to say, where there is a person ordinarily resident in England or Wales with whom the pupil habitually resides, either both during terms and during holidays or, if he is being educated as a boarder, during holidays, being a person who has the actual charge of him whilst he is resident with that person, the pupil shall be treated as belonging to the area of the local education authority in whose area that person ordinarily resides ; and
- (b) in a case in which there is no such person, the pupil shall be treated as not belonging to the area of any local education authority ;

subject however to the provisions of the next succeeding subsection.

(3) The general rule specified in the last preceding subsection shall be subject to the following exceptions, that is to say,—

- (a) a pupil for whom a local education authority is for the time being appointed as a fit person under the Children and Young Persons Act, 1933, shall be treated as belonging to the area of that authority ; 23 & 24 Geo. 5. c. 12.
- (b) a pupil for whom a person other than a local education authority is for the time being appointed as a fit person as aforesaid, or for whom a guardian is for the time being appointed under the Guardianship (Refugee Children) Act, 1944, shall be treated as belonging to the area of such local education authority as may be prescribed, or, if none is prescribed, as not belonging to the area of any such authority ; 7 & 8 Geo. 6. c. 8.
- (c) where immediately before the date of the commencement of Part II of the principal Act a former authority had been required under the Education (Institution Children) Act, 1923, to make payments in respect of a pupil to another former authority and were liable to make such payments, then, so long as the first-mentioned former authority would have remained so liable if the said Act of 1923 had not been repealed, the pupil shall be treated 13 & 14 Geo. 5. c. 38.

as belonging to the area of the local education authority responsible for the liabilities of the first-mentioned former authority; and

(d) in such other cases as may be prescribed a pupil shall be treated in accordance with the regulations either as belonging to the area of a prescribed local education authority or as not belonging to the area of any such authority.

(4) Any question whether a pupil ought to be treated as belonging to the area of any particular local education authority, or as not belonging to the area of any such authority, shall, in case of dispute, be determined by the Minister.

(5) A local education authority may make a payment by way of recoupment to another such authority of cost incurred by the other authority in making any provision—

(a) for primary or secondary education in respect of a pupil belonging to the area of the paying authority, or

(b) for further education in respect of a person ordinarily resident in the area of the paying authority,

notwithstanding that the paying authority are not under a legal obligation to make the payment.

(6) References in this section to provision for education include references to provision of any benefits or services for which provision is made by or under the enactments relating to education.

(7) This section shall have effect, as respects any provision for education, in substitution for section one hundred and six of the principal Act, in so far as the cost of the provision is attributable to any period after the thirty-first day of March, nineteen hundred and forty-eight, and regulations for the purposes of this section may accordingly be made so as to extend to any such provision made before the coming into operation of the regulations in so far as the cost of the provision is attributable to any such period.

Amendments as to modifying the requirement of conformity to prescribed standards as to premises of schools.

7.—(1) For the proviso to subsection (2) of section ten of the principal Act (which empowers the Minister to give such a direction as is therein mentioned where he is satisfied that it would be unreasonable in the case of any particular school to require conformity in any particular respect with the requirements of the regulations as to the prescribed standards as to the premises of schools), the following proviso shall be substituted, that is to say—

“ Provided that, if the Minister is satisfied with respect to any school—

(a) that having regard to the nature of the existing site or to any existing buildings thereon or to other special circumstances affecting the school premises

it would be unreasonable to require conformity with a requirement of the regulations as to any matter, or

(b) where the school is to have an additional or new site that, having regard to shortage of suitable sites it would be unreasonable to require conformity with a requirement of the regulations relating to sites, or

(c) where the school is to have additional buildings or is to be transferred to a new site, and existing buildings not theretofore part of the school premises, or temporary buildings, are to be used for that purpose, that having regard to shortage of labour or materials it would be unreasonable to require conformity with a requirement of the regulations relating to buildings,

he may give a direction that, notwithstanding that that requirement is not satisfied, the school premises shall, whilst the direction remains in force, be deemed to conform to the prescribed standards as respects matters with which the direction deals if such conditions, if any, as may be specified in the direction as respects those matters are observed."

(2) Where it is proposed to establish a new school to be maintained by a local education authority, if the Minister is satisfied, on the submission to him of the specifications and plans of the school premises, either—

(a) with respect to the site of the school, as to the matters mentioned in paragraph (b) set out in the preceding subsection, or

(b) with respect to buildings where the school is to be established in premises comprising existing buildings or temporary buildings, as to the matters mentioned in paragraph (c) set out in the preceding subsection,

he may (notwithstanding the provisions of section thirteen of the principal Act as to conformity to the prescribed standards) approve the specifications and plans, and may undertake to give a direction as to the school under the proviso to subsection (2) of section ten of the principal Act on the school's being established.

(3) This section shall be deemed to have had effect since the commencement of Part II of the principal Act.

8.—Where a report has been made under subsection (3) of section fifty-seven of the principal Act of a decision that a child is incapable on the ground of mental disability of receiving education at school, if at any time thereafter the local health authority, or an authority or body responsible for the management of an institution in which the child is under care, are of opinion that the decision ought to be reviewed, they shall notify the local authority that a child is incapable of receiving education at school owing to disability of mind.

education authority of their opinion, and thereupon the provisions of subsections (1) and (2) of that section as to the medical examination of the child shall apply as on its first appearing to the local education authority that the child was suffering from the disability, and if they decide, after considering the advice given by the medical officer and any reports or information from the authority or body who notified the opinion that the decision ought to be reviewed or other persons, that the child is capable of receiving education at school, they shall cancel their original report.

Presumption of age in proceedings to enforce attendance at school.

9.—(1) For the purposes of a prosecution of the parent of a child for an offence against section thirty-seven or section thirty-nine of the principal Act (which relate respectively to failure to comply with a school attendance order and to failure of a child to attend regularly at school), in so far as the child's having been of compulsory school age at any time is material, the child shall be presumed to have been of compulsory school age at that time unless the parent proves the contrary.

(2) An obligation under the preceding subsection to presume a child to have been of compulsory school age at any time shall be in substitution, so far as regards the purposes for which that presumption is required to be made, for the power conferred on the court by subsection (1) of section ninety-five of the principal Act (which is a power to presume a person to be under, of, or over, an age alleged by the person by whom any proceedings under the principal Act are brought on his satisfying the court that, having used all reasonable diligence to obtain evidence as to the age of that person, he has been unable to do so).

Provisions as to power of local education authorities to acquire land by agreement.

10.—(1) Subsection (1) of section ninety of the principal Act (under which a local education authority may be authorised to purchase compulsorily land required for the purposes of any school or college which is, or is to be, maintained by them, or otherwise for the purposes of their functions under that Act) shall be amended by inserting therein, after the words "for the purposes of any school or college which is, or is to be, maintained by them" the words "or which they have power to assist."

(2) For the removal of doubt it is hereby declared that the rendering available of land for the purposes of a school, college or other institution which is, or is to be, maintained by a local education authority, or which they have power to assist, is a function of the authority within the meaning of section one hundred and fifty-seven of the Local Government Act, 1933, or, as the case may be, of section ninety-seven of the London Government Act, 1939 (which relate to the acquisition by a local authority by agreement of land for the purpose of any of their functions), notwithstanding that the land will not be held by the authority.

23 & 24
Geo. 5. c. 51.
2 & 3
Geo. 6. c. 40.

(3) A local education authority shall not acquire by agreement any land required for the purposes of a voluntary school unless they are satisfied that the arrangements made as to the vesting of the land to be acquired, and as to the appropriation thereof for those purposes, are such as to secure that the expenditure ultimately borne by them will not include any expenditure which, if the land had been acquired by the managers or governors of the school, would have fallen to be borne by the managers or governors.

11.—(1) The provisions of the principal Act specified in the first column of Part I of the First Schedule to this Act, and the provisions of other Acts specified in the first column of Part II of that Schedule, shall have effect subject to the amendments specified in the second column of that Schedule (being amendments which relate to minor matters and consequential amendments).

Miscellaneous amendments and repeals.

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

12. Regulations made for any of the purposes of this Act, save in so far as they are subject to corresponding provision by virtue of their being made under a power conferred by the principal Act, shall be made by statutory instrument and shall be subject to annulment in pursuance of resolution of either House of Parliament.

Provisions as to regulations.

13. Any increase attributable to the provisions of this Act in the expenses to be defrayed out of moneys provided by Parliament under section one hundred and seven of the principal Act shall be defrayed out of moneys so provided.

Expenses.

14.—(1) This Act may be cited as the Education (Miscellaneous Provisions) Act, 1948.

Short title, citation, construction and extent.

(2) This Act (except section two thereof and the provisions of the Schedules thereto relating to the Endowed Schools Acts, 1869 to 1908) and the Education Acts, 1944 and 1946, may be cited together as the Education Acts, 1944 to 1948, and the said excepted section and provisions and the Endowed Schools Acts, 1869 to 1908, may be cited together as the Endowed Schools Acts, 1869 to 1948.

(3) This Act (other than the said excepted section and provisions) shall be construed as one with the Education Acts, 1944 and 1946, and the said excepted section and provisions shall be construed as one with the Endowed Schools Acts, 1869 to 1908.

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

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

SCHEDULES.

Sections 2, 11.

FIRST SCHEDULE.

MINOR AND CONSEQUENTIAL AMENDMENTS.

PART I.

AMENDMENTS OF THE PRINCIPAL ACT (7 & 8 GEO. 6. C. 31.)

<i>Enactment amended and subject matter thereof.</i>	<i>Amendment.</i>
Section thirty-three, subsection (2). (Special educational treatment in a maintained or assisted school in lieu of in a special school)	For the words "in any school maintained or assisted by the local education authority", substitute "in any school maintained or assisted by a local education authority".
Section forty, subsection (2). (Duty to take proceedings to enforce school attendance)	For the words "It shall be the duty of the local education authority", substitute "It shall be the duty— (a) in the case of an offence against section thirty-seven of this Act, of the local education authority by whom the school attendance order in question was made, or (b) in the case of an offence against section thirty-nine of this Act, of the local education authority for the area to which the child in question belongs (unless they are satisfied that proceedings for the offence have been or are to be instituted by the local education authority for the area in which the school is at which the child is a registered pupil), or, if the child does not belong to the area of any local education authority, of the local education authority for the area in which that school is".

*Enactment amended
and subject
matter thereof.*

Amendment.

1ST SCH.
—cont.

- Section forty ... After subsection (3) insert—
(Enforcement of school attendance)
- “(3A) The power to direct that a child be brought before a juvenile court conferred by the last preceding subsection on the court before which a person is prosecuted in respect of failure of the child to attend regularly at the school at which the child is a registered pupil shall be exercisable also by the court before which a person is convicted of failing to comply with the requirements of a school attendance order, and, where a child is brought before the juvenile court pursuant to a direction given by virtue of this subsection, that court shall have the like power as is conferred on such a court by the last preceding subsection.”
- Section forty-eight, subsection (3).
(Provision of free medical treatment)
- For the words “ for pupils in attendance at any school or county college maintained by them ”, substitute “ for pupils for whom primary secondary or further education is provided by them at any school or county college maintained by them ”; and for the words “ pupils in attendance at any other educational establishment maintained by them ”, substitute “ pupils for whom secondary or further education is provided by them at any other educational establishment maintained by them ”.
- Section fifty, subsection (1).
(Circumstances in which board and lodging may be provided)
- Before the words “ the authority may provide such board and lodging for him under such arrangements as they think fit ”, insert “ and where a local education authority are satisfied, with respect to a pupil requiring special educational treatment, that provision for him of board and lodging is necessary for enabling him to receive the required special educational treatment ”.
- Section fifty-three, subsection (1).
(Provision by local education authority of facilities for recreation and training)
- For the words “ available for persons for whom primary secondary or further education is provided by the authority ”, substitute “ available for persons receiving primary secondary or further education ”.

1ST SCH.
—cont.

*Enactment amended
and subject
matter thereof.*

Amendment.

Section fifty-five, subsection (2).
(Payment of travelling expenses of pupils)

For the words "may pay the reasonable travelling expenses", substitute "may pay the whole or any part, as the authority think fit, of the reasonable travelling expenses".

Section fifty-six ...
(Provision for full-time education otherwise than at school in extraordinary circumstances)

For the words "they shall have power with the approval of the Minister to make special arrangements for him to receive such education otherwise than at school", substitute "they shall have power with the approval of the Minister to make special arrangements for him to receive education otherwise than at school, being primary or secondary education, as the case may require, or, if the authority are satisfied that it is impracticable for him to receive full-time education and the Minister approves, education similar in other respects but less than full-time".

Section fifty-seven, subsection (6).
(Dealing with certain children under the Mental Deficiency Act, 1913)

For the words "ought to be dealt with under that Act", substitute "ought to be dealt with under the enactments relating to mental health".

Section one hundred and sixteen.
(Exclusion from principal Act of persons of unsound mind and persons detained by order of a court)

In the provision "is undergoing treatment as a voluntary patient under section one, or a temporary patient under section five, of the Mental Treatment Act, 1930", omit the words "a voluntary patient under section one or".

For the words "has been reported under subsection (3) of section fifty-seven of this Act", substitute "is for the time being the subject of a report in force under subsection (3) of section fifty-seven of this Act".

At the end of the section insert—

"or of an order of recall made by the Prison Commissioners, but a local education authority shall have power to make arrangements for a person who is detained in pursuance of an order made by a court, or

*Enactment amended
and subject
matter thereof.*

Amendment.

1ST SCH.
—cont.

Section one hundred
and sixteen—cont.

of such an order of recall, to receive the benefit of educational facilities provided by the authority.

Where a child or young person is being educated as a boarder at a school, the fact that he is required to be at the school by virtue of an order made by a court under the Children and Young Persons Act, 1933, or by virtue of anything done under such an order, or by virtue of a requirement of a probation order or by virtue of anything done under such a requirement, shall not render him a person detained in pursuance of an order made by a court within the meaning of those words in this section ”.

Third Schedule,
paragraph 5.

(Amount of
grant on execution
of special agree-
ment proposals)

At the end of the paragraph insert—

“ Provided that, where the proposals include proposals for establishing a playing field or any buildings of a kind which it is, under subsection (7) of section thirteen of this Act, the duty of the local education authority to provide,—

(a) if the proposals as respects the playing field or buildings are to be executed by the persons specified in the agreement, the amount of the grant so far as attributable to the cost thereof, shall be equal to the whole of that cost ; and

(b) if the proposals as respects the playing field or buildings are to be executed by the local education authority, the cost thereof shall be borne by them and excluded in computing the amount of the grant.”

Fourth Schedule,
paragraph 4.

(Times for meet-
ings of managers
or governors of
schools)

For the words “ at least once in every three months ”, substitute “ at least once in every school term ”.

1ST SCH
—cont.

PART II.

AMENDMENTS OF OTHER ENACTMENTS.

The Endowed Schools Act, 1869 (32 & 33 Vict. c. 56.).

<i>Enactment amended and subject matter thereof.</i>	<i>Amendment.</i>
Section five ... (Definition for purposes of the Endowed Schools Acts of "educational endowment")	For the section substitute the following section— " 5. In this Act, unless the context otherwise requires, the expression "educational endowment" means an endowment or any part of an endowment which, or the income whereof, has been made applicable or is applied for the purposes of education, whether the same has been made so applicable by the original instrument of foundation or by any subsequent Act of Parliament, letters patent, decree, scheme, order, instrument, or other authority".
Section nine ... (Purposes for which schemes may be made)	For the words "the education of boys and girls, or either of them", substitute "education".
Section twelve ... (Extension to girls of benefits of endowments)	For the section substitute the following section— " 12. Without prejudice to the generality of this Act as to the provision which may be made by schemes thereunder, provision may be made thereby for extending to persons of either sex the benefits of endowments which might otherwise be limited to persons of the other sex".
Sections fifteen and sixteen. (Exemption from attending religious worship etc.)	At the end of each of those sections insert— " In the application of this section to a scholar attending an educational establishment other than a school within the meaning of the Education Act, 1944, references to the scholar himself shall be substituted for the references therein to his parent or guardian or the person liable to maintain him or having the actual custody of him".
Section nineteen ... (Exception of certain endowments from certain provisions of Act unless governing body assents)	In the provision "unless the governing body, constituted as it would have been if no scheme under this Act had been made, assents to such scheme", omit the words "constituted as it would have been if no scheme under this Act had been made".

*The Mental Deficiency Act, 1913 (3 & 4 Geo. 5. c. 28.).**Enactment amended
and subject
matter thereof.**Amendment.*

Section one, sub-
section (1), para-
graph (c).

(Definition of
defectives)

For the words " or, in the case of children, that they appear to be permanently incapable by reason of such defectiveness of receiving proper benefit from the instruction in ordinary schools ", substitute " or, in the case of children, involves disability of mind of such a nature and extent as to make them, for the purposes of section fifty-seven of the Education Act, 1944, incapable of receiving education at school ".

Section two, sub-
section (1), para-
graph (b) (v).

(Persons who
may be dealt
with as defectives
as mentioned in
that section)

For the words " who is a person with respect to whom a report has been issued under the enactments relating to education ", substitute " who is for the time being the subject of a report in force under the enactments relating to education ".

The Children and Young Persons Act, 1933 (23 & 24 Geo. 5. c. 12.).

Section eighteen,
subsection (1),
paragraph (a).

(Minimum age
for employment)

For the paragraph substitute the following paragraph—

" (a) until he has attained the age two years below that which is for the time being the upper limit of the compulsory school age by virtue of section thirty-five of the Education Act, 1944, together with any Order in Council made under that section (without regard to the provisions of subsection (1) of section thirty-eight of that Act as to the age of pupils at special schools, or to the provisions of section eight of the Education Act, 1946, as to deeming a person not to have attained a given age until the end of a school term) ".

Section II.

SECOND SCHEDULE.

REPEALS.

Session and Chapter.	Short Title.	Extent of Repeal.
32 & 33 Vict. c. 56.	The Endowed Schools Act, 1869.	In section nineteen, the words "constituted as it would have been if no scheme under this Act had been made".
52 & 53 Vict. c. 40.	The Welsh Intermediate Education Act, 1889.	The whole Act.
7 & 8 Geo. 6. c. 31.	The Education Act, 1944.	<p>In section two, subsection (2). Section fifty-one.</p> <p>In section fifty-two, in subsection (1), the words "or with clothing", and, in subsection (2), the words "or the cost of the clothing provided, as the case may be".</p> <p>In section fifty-three, subsection (3).</p> <p>In section seventy-eight, in subsection (2), the word "and" at the end of paragraph (a) and paragraph (b).</p> <p>In section eighty, in subsection (1), the words "of compulsory school age", and subsection (3).</p> <p>In section one hundred and fourteen, in subsection (1), in the definition of "Registered pupil", the words from "but does not include" to "in the prescribed manner".</p> <p>In section one hundred and sixteen, the words "a voluntary patient under section one or".</p>
9 & 10 Geo. 6. c. 50.	The Education Act, 1946.	Section nine.

CHAPTER 41.

An Act to abolish the defence of common employment, to amend the law relating to the measure of damages for personal injury or death, and for purposes connected therewith. [30th June 1948.]

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) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was at the time the injuries were caused in common employment with the person injured. Common employment.

(2) Accordingly the Employers' Liability Act, 1880, shall cease to have effect, and is hereby repealed. 43 & 44 Vict.
c. 42.

(3) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, (including a contract or agreement entered into before the commencement of this Act) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

2.—(1) In an action for damages for personal injuries (including any such action arising out of a contract), there shall in assessing those damages be taken into account, against any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, one half of the value of any rights which have accrued or probably will accrue to him therefrom in respect of industrial injury benefit, industrial disablement benefit or sickness benefit for the five years beginning with the time when the cause of action accrued. Measure of damages.

This subsection shall not be taken as requiring both the gross amount of the damages before taking into account the said rights and the net amount after taking them into account to be found separately.

(2) In determining the value of the said rights there shall be disregarded any increase of an industrial disablement pension in respect of the need of constant attendance.

(3) The reference in subsection (1) of this section to assessing the damages for personal injuries shall, in cases where the damages

otherwise recoverable are subject to reduction under the law relating to contributory negligence or are limited by or under any Act or by contract, be taken as referring to the total damages which would have been recoverable apart from the reduction or limitation.

(4) In an action for damages for personal injuries (including any such action arising out of a contract), there shall be disregarded, in determining the reasonableness of any expenses, the possibility of avoiding those expenses or part of them by taking advantage of facilities available under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, or of any corresponding facilities in Northern Ireland.

9 & 10 Geo. 6.
c. 81.
10 & 11 Geo. 6.
c. 27.

(5) In assessing damages in respect of a person's death in any action under the Fatal Accidents Act, 1846, as amended by any subsequent enactment, or under the Carriage by Air Act, 1932, there shall not be taken into account any right to benefit resulting from that person's death.

9 & 10 Vict.
c. 93.
22 & 23 Geo. 5.
c. 36.

(6) For the purposes of this section—

(a) the expression "benefit" means benefit under the National Insurance Acts, 1946, or any corresponding Act of the Parliament of Northern Ireland;

(b) expressions used in the National Insurance Acts, 1946, for any description of benefit under those Acts have the same meanings as in those Acts, except that they include also the like benefit, if any, under any corresponding Act of the Parliament of Northern Ireland;

(c) an industrial disablement gratuity shall be treated as benefit for the period taken into account by the assessment of the extent of the disablement in respect of which it is payable.

Definition of
"personal
injury".

3. In this Act the expression "personal injury" includes any disease and any impairment of a person's physical or mental condition, and the expression "injured" shall be construed accordingly.

Application
to Crown.

4. This Act shall bind the Crown.

Northern
Ireland.

5.—(1) If the Parliament of Northern Ireland passes legislation for purposes similar to the purposes of this Act, then in connection with that legislation any limitation on the powers of that Parliament imposed by the Government of Ireland Act, 1920, shall not apply in so far as it would preclude that Parliament from enacting a provision corresponding to some provision of this Act.

10 & 11 Geo. 5.
c. 67.

(2) This Act, except in so far as it enlarges the powers of the Parliament of Northern Ireland, shall not extend to Northern Ireland.

6.—(1) This Act may be cited as the Law Reform (Personal Injuries) Act, 1948. Short title and commencement.

(2) Section one and subsection (1) of section two of this Act shall apply only where the cause of action accrues on or after the day appointed for the National Insurance (Industrial Injuries) Act, 1946, to take effect ; but subsections (4) and (5) of the said section two shall apply whether the cause of action accrued or the action was commenced before or after the commencement of this Act. 9 & 10 Geo. 6. c. 62.

CHAPTER 42.

An Act to amend the National Insurance (Industrial Injuries) Act, 1946, in relation to increases of disablement benefit under section fourteen of that Act. [30th June 1948.]

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 fourteen of the National Insurance (Industrial Injuries) Act, 1946, shall be amended in accordance with the next following subsection, and shall accordingly have effect as set out in the Schedule to this Act. Amendment of 9 & 10 Geo. 6. c. 62.

(2) In the said section fourteen—

(a) in subsection (1)—

(i) for the words “ by eleven shillings and three-pence ” there shall be substituted the words “ by an amount not exceeding twenty shillings ” ; and

(ii) at the end of the subsection there shall be added the words “ or if as the result of the relevant loss of faculty the beneficiary is and has at all times since the end of the injury benefit period been incapable of following the said occupation or any such employment as aforesaid ” ;

(b) after subsection (2) there shall be inserted the following subsection :—

“(2A) Regulations may for the purposes of this section provide that a person shall not be treated as capable of following an occupation or employment

merely because of his working thereat during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances ” ;

- (c) in subsection (3) for the words “ A beneficiary shall not be entitled to an increase of pension under this section for any period for which he is entitled to an unemployment supplement ” there shall be substituted the words “ An unemployment supplement and an increase of pension under this section shall not be payable for the same period ” ;
- (d) at the end of subsection (4) there shall be added the words “ and the amount of the increase shall be determined by reference to the beneficiary’s probable standard of remuneration during the period for which it is granted in the insurable employments, if any, which are suitable in his case and which he is likely to be capable of following as compared with that in his regular occupation (within the meaning of subsection (1) of this section) ”.

(3) Section twenty-nine of the said Act (which limits the aggregate weekly rate of benefit payable for successive accidents, in the case of beneficiaries between the ages of seventeen and eighteen, to thirty-three shillings and ninepence apart from the increases mentioned in subsection (2) thereof) shall be amended as follows :—

- (a) so much of the said subsection (2) as provides for disregarding increases under the said section fourteen in the case of beneficiaries between those ages shall not have effect ; and
- (b) at the end of sub-paragraph (ii) of paragraph (a) of subsection (1) (which imposes the said limit of thirty-three shillings and ninepence) there shall be added the words “ apart from any increase of benefit under section fourteen of this Act, or forty-five shillings with any increase under that section ”.

Short title
and citation.

2. This Act may be cited as the National Insurance (Industrial Injuries) Act, 1948, and this Act and the National Insurance Acts, 1946, may be cited together as the National Insurance Acts, 1946 and 1948.

SCHEDULE.

Section 1.

SECTION FOURTEEN AS AMENDED.

14.—(1) The weekly rate of a disablement pension shall, subject to the following provisions of this section, be increased by an amount not exceeding twenty shillings, if as the result of the relevant loss of faculty the beneficiary—

- (a) is incapable and likely to remain permanently incapable of following his regular occupation ; and
(b) is incapable of following employment of an equivalent standard which is suitable in his case ;

or if as the result of the relevant loss of faculty the beneficiary is and has at all times since the end of the injury benefit period been incapable of following the said occupation or any such employment as aforesaid.

(2) In the foregoing subsection—

- (a) the reference to a person's regular occupation shall be taken as not including any subsidiary occupation of his ;
(b) the reference to employment of an equivalent standard shall be taken as not including employment other than insurable employment ;

and in assessing the standard of remuneration in any employment, including a person's regular occupation, regard shall be had to his reasonable prospects of advancement.

(2A) Regulations may for the purposes of this section provide that a person shall not be treated as capable of following an occupation or employment merely because of his working thereat during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances.

(3) An unemployability supplement and an increase of pension under this section shall not be payable for the same period ; and the weekly rate of a disablement pension, apart from any increase in respect of the need for constant attendance or in respect of a child or adult dependant, shall not by virtue of this section be increased above forty-five shillings.

(4) Subject to the last foregoing subsection, an increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time, and the amount of the increase shall be determined by reference to the beneficiary's probable standard of remuneration during the period for which it is granted in the insurable employments, if any, which are suitable in his case and which he is likely to be capable of following as compared with that in his regular occupation (within the meaning of subsection (1) of this section).

(5) Regulations may make as respects a disablement gratuity provision corresponding to that made by this section as respects a disablement pension, and may include provision for payment of a pension in lieu of the gratuity.

CHAPTER 43.*Children Act, 1948.*

ARRANGEMENT OF SECTIONS.

PART I.

DUTY OF LOCAL AUTHORITIES TO ASSUME CARE OF CHILDREN.

Section.

1. Duty of local authority to provide for orphans, deserted children, etc.
2. Assumption by local authority of parental rights.
3. Effect of assumption by local authority of parental rights.
4. Duration and rescission of resolutions under section two.
5. Duty of local authority to act as fit person under the Children and Young Persons Acts.
6. Application of preceding provisions to children already subject, or becoming subject, to orders of court.
7. Children in care of Minister of Pensions.
8. Children becoming subject to Mental Deficiency or Lunacy and Mental Treatment Acts.
9. Meaning of "parents or guardian".
10. Duty of parents to maintain contact with local authorities having their children in care.

PART II.

TREATMENT OF CHILDREN IN CARE OF LOCAL AUTHORITIES.

11. Scope of Part II.
12. General duty of local authority.
13. Mode of provision of accommodation and maintenance.
14. Regulations as to boarding-out.
15. Duty of local authorities to provide homes.
16. Accommodation of children in voluntary homes.
17. Power of local authorities to arrange for emigration of children.
18. Burial or cremation of deceased children.
19. Provision of hostels for persons under twenty-one.
20. Financial assistance towards expenses of maintenance, education or training of persons over eighteen.
21. Allocation of functions as between local authority and local education authority.
22. Power of local authority to defray expenses of parents, etc., visiting children or attending funerals.

PART III.

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN.

23. Contributions in respect of children in care of local authority.
24. Persons liable to make contributions.
25. Repeal of limit to amount of contributions.
26. Affiliation orders.

PART IV.

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS.

Section.

27. Provisions as to voluntary homes to extend to homes supported wholly or partly by endowments.
28. Extension of age limits in provisions relating to voluntary homes.
29. Registration of voluntary homes.
30. Appeals.
31. Regulations as to conduct of voluntary homes.
32. Provisions where particulars to be sent of voluntary homes are varied.
33. Powers of Secretary of State as to voluntary organisations.
34. After-care of children formerly in care of local authorities or voluntary organisations.

PART V.

CHILD LIFE PROTECTION.

35. General extension of Child Life Protection provisions to all children below school leaving age.
36. Extension of certain Child Life Protection provisions to children up to eighteen.
37. Miscellaneous amendments of Child Life Protection provisions.

PART VI.

ADMINISTRATIVE AND FINANCIAL PROVISIONS.

38. Local authorities.
39. Children's committee.
40. Modification, in certain cases, of requirements of last foregoing section.
41. The children's officer.
42. Powers of Secretary of State with respect to functions of local authorities.
43. Advisory Council on Child Care.
44. Advisory Council on Child Care for Scotland.
45. Grants for training in child care.
46. Grants to voluntary organisations.
47. Grants to local authorities.
48. Administrative expenses of Secretary of State.
49. Accounts of councils of county boroughs.

PART VII.

MISCELLANEOUS AND GENERAL.

50. Appointment of guardians.
51. Provisions as to places of safety.
52. Amendment of Family Allowances Act, 1945, ss. 11 and 26.
53. Enforcement of orders for payment of money under Guardianship of Infants Acts.
54. Provisions as to entry and inspection.
55. Prosecution of offences.
56. Acquisition of land.
57. Transfer, superannuation and compensation of officers.
58. Regulations and orders.

Section.

- 59. Interpretation.
- 60. Transitional provisions, minor amendments and repeals.
- 61. Application to Isles of Scilly.
- 62. Short title, commencement and extent.

SCHEDULES :

- First Schedule.—Appeal Tribunals.
- Second Schedule.—Transitional Provisions.
- Third Schedule.—Minor and Consequential Amendments.
- Fourth Schedule.—Repeals.

An Act to make further provision for the care or welfare, up to the age of eighteen and, in certain cases, for further periods, of boys and girls when they are without parents or have been lost or abandoned by, or are living away from, their parents, or when their parents are unfit or unable to take care of them, and in certain other circumstances; to amend the Children and Young Persons Act, 1933, the Children and Young Persons (Scotland) Act, 1937, the Guardianship of Infants Act, 1925 and certain other enactments relating to children; and for purposes connected with the matters aforesaid. [30th June 1948.]

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.

DUTY OF LOCAL AUTHORITIES TO ASSUME CARE OF CHILDREN.

Duty of local authority to provide for orphans, deserted children, etc.

1.—(1) Where it appears to a local authority with respect to a child in their area appearing to them to be under the age of seventeen—

- (a) that he has neither parent nor guardian or has been and remains abandoned by his parents or guardian or is lost; or
- (b) that his parents or guardian are, for the time being or permanently, prevented by reason of mental or bodily disease or infirmity or other incapacity or any other circumstances from providing for his proper accommodation, maintenance and upbringing; and
- (c) in either case, that the intervention of the local authority under this section is necessary in the interests of the welfare of the child,

it shall be the duty of the local authority to receive the child into their care under this section.

(2) Where a local authority have received a child into their care under this section, it shall, subject to the provisions of this Part of this Act, be their duty to keep the child in their care so long as the welfare of the child appears to them to require it and the child has not attained the age of eighteen.

(3) Nothing in this section shall authorise a local authority to keep a child in their care under this section if any parent or guardian desires to take over the care of the child, and the local authority shall, in all cases where it appears to them consistent with the welfare of the child so to do, endeavour to secure that the care of the child is taken over either—

- (a) by a parent or guardian of his, or
- (b) by a relative or friend of his, being, where possible, a person of the same religious persuasion as the child or who gives an undertaking that the child will be brought up in that religious persuasion.

(4) Where a local authority receive a child into their care under this section who is then ordinarily resident in the area of another local authority,—

- (a) that other local authority may at any time not later than three months after the determination (whether by agreement between the authorities or in accordance with the following provisions of this subsection) of the ordinary residence of the child, or with the concurrence of the first-mentioned authority at any subsequent time, take over the care of the child; and
- (b) the first-mentioned authority may recover from the other authority any expenses duly incurred by them under Part II of this Act in respect of him (including any expenses so incurred after he has ceased to be a child and, if the other authority take over the care of him, including also any travelling or other expenses incurred in connection with the taking-over).

Any question arising under this subsection as to the ordinary residence of a child shall be determined by the Secretary of State.

(5) In determining for the purposes of the last foregoing subsection the ordinary residence of any child, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a supervision order or probation order or the conditions of a recognisance, or while boarded out under this Act, the Poor Law Act, 1930, the Children and Young Persons Act, 1933,

20 & 21 Geo. 5.
c. 17.
23 & 24 Geo. 5.
c. 12.

PART I.

—*cont.*

24 & 25 Geo. 5.
c. 52.
1 Edw. 8 &
1 Geo. 6. c. 37.

Assumption by
local authority
of parental
rights.

the Poor Law (Scotland) Act, 1934, or the Children and Young Persons (Scotland) Act, 1937, by a local authority or education authority shall be disregarded.

2.—(1) Subject to the provisions of this Part of this Act, a local authority may resolve with respect to any child in their care under the foregoing section in whose case it appears to them—

(a) that his parents are dead and that he has no guardian;
or

(b) that a parent or guardian of his (hereinafter referred to as the person on whose account the resolution was passed) has abandoned him or suffers from some permanent disability rendering the said person incapable of caring for the child, or is of such habits or mode of life as to be unfit to have the care of the child,

that all the rights and powers which the deceased parents would have if they were still living, or, as the case may be, all the rights and powers of the person on whose account the resolution was passed, shall vest in the local authority.

(2) In the case of a resolution passed by virtue of paragraph (b) of the last foregoing subsection, unless the person on whose account the resolution was passed has consented in writing to the passing of the resolution, the local authority, if the whereabouts of the said person are known to them, shall forthwith after the passing of the resolution serve on him notice in writing of the passing thereof; and if, not later than one month after such a notice is served on him, the person on whose account the resolution was passed serves a notice in writing on the local authority objecting to the resolution, the resolution shall, subject to the provisions of subsection (3) of this section, lapse on the expiration of fourteen days from the service of the notice of objection.

Every notice served by a local authority under this subsection shall inform the person on whom the notice is served of his right to object to the resolution and of the effect of any objection made by him.

(3) Where a notice has been served on a local authority under subsection (2) of this section, the authority may not later than fourteen days from the receipt by them of the notice complain to a juvenile court, or in Scotland the sheriff, having jurisdiction in the area of the authority, and in that event the resolution shall not lapse by reason of the service of the notice until the determination of the complaint, and the court or sheriff may, on the hearing of the complaint, order

that the resolution shall not lapse by reason of the service of the notice :

PART I.
- cont.

Provided that the court or sheriff shall not so order unless satisfied that the child had been, and at the time when the resolution was passed remained, abandoned by the person who made the objection or that that person is unfit to have the care of the child by reason of unsoundness of mind or mental deficiency or by reason of his habits or mode of life.

(4) Any notice under this section may be served by post, so however that a notice served by a local authority under subsection (2) of this section shall not be duly served by post unless it is sent in a registered letter.

3.—(1) While a resolution passed by virtue of paragraph (a) of subsection (1) of section two of this Act is in force with respect to a child, all rights and powers which the deceased parents would have if they were still living shall, in respect of the child, be vested in the local authority in accordance with the resolution. Effect of assumption by local authority of parental rights.

(2) While a resolution passed by virtue of paragraph (b) of the said subsection (1) is in force with respect to a child, all rights and powers of the person on whose account the resolution was passed shall, in respect of the child, be vested in the local authority in accordance with the resolution, and subsection (3) of section one of this Act shall not in respect of the child apply in relation to the person on whose account the resolution was passed.

(3) A resolution under section two of this Act shall not prevent the local authority from allowing, either for a fixed period or until the local authority otherwise determine, the care of the child to be taken over by, and the child to be under the control of, a parent, guardian, relative or friend in any case where it appears to the authority to be for the benefit of the child.

(4) Where a resolution under section two of this Act is in force in respect of a child and the child has ceased to be in the care of the local authority by whom the resolution was passed, then (without prejudice to the provisions of section one of this Act if those provisions apply) the local authority by whom the resolution was passed shall have power to receive the child back into their care in any circumstances in which it appears to them that their intervention under this subsection is necessary in the interests of the welfare of the child.

(5) Where a local authority receive a child into their care under the last foregoing subsection, the provisions of this Act, except subsections (4) and (5) of section one thereof, shall apply as if the child had been received into their care under the said section one.

PART I.
—cont.

(6) A resolution under the said section two shall not relieve any person from any liability to maintain, or contribute to the maintenance of, the child.

(7) A resolution under the said section two shall not authorise a local authority to cause a child to be brought up in any religious creed other than that in which he would have been brought up but for the resolution.

(8) Any person who knowingly—

(a) assists or induces or persistently attempts to induce a child to whom this subsection applies to run away, or

(b) harbours or conceals a child to whom this subsection applies who has run away, or prevents him from returning to the place from which he has run away,

shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

This subsection applies to any child in the care of a local authority under section one of this Act in whose case a resolution is in force under section two thereof, being a child for whom accommodation (whether in a home or otherwise) is being provided by the local authority in pursuance of Part II of this Act, and references in this subsection to running away shall be construed as references to running away from a place where accommodation is or was being so provided.

Duration and
rescission of
resolutions
under section
two.

4.—(1) Subject to the provisions of this Part of this Act, a resolution under section two of this Act shall continue in force until the child with respect to whom it was passed attains the age of eighteen.

(2) A resolution under the said section two may be rescinded by resolution of the local authority if it appears to them that the rescinding of the resolution will be for the benefit of the child.

(3) On complaint being made—

(a) in the case of a resolution passed by virtue of paragraph (a) of subsection (1) of the said section two, by a person claiming to be a parent or guardian of the child;

(b) in the case of a resolution passed by virtue of paragraph (b) thereof, by the person on whose account the resolution was passed,

a juvenile court, or in Scotland the sheriff, having jurisdiction where the complainant resides, if satisfied that there was no

ground for the making of the resolution or that the resolution should in the interests of the child be determined, may by order determine the resolution, and the resolution shall thereupon cease to have effect:

Provided that, if the court or sheriff think fit, they or he may, in lieu of determining the resolution, order that, either for a fixed period or until they or he, or, if the order so provides, the local authority, otherwise direct, the local authority shall allow the care of the child to be taken over by, and the child to be under the control of, the complainant.

5.—(1) In any case where, under the Children and Young Persons Act, 1933, a court has power to commit a person brought before the court to the care of a fit person, the assent of a local authority shall not be required for the making by the court of an order committing him to the care of the authority unless a probation order or supervision order is in force or the court proposes to make such an order at the same time as the order committing the child to the care of the authority, and accordingly the following subsections shall be substituted for subsection (1) of section seventy-six of that Act:—

Duty of local authority to act as fit person under the Children and Young Persons Acts.

“(1) The appropriate local authority shall, for the purposes of the provisions of this Act relating to the making of orders committing a child or young person to the care of a fit person, be deemed to be a fit person willing to undertake the care of him, and accordingly orders may be made committing children and young persons to their care, and they shall undertake the care of children and young persons so committed:

Provided that where a probation order or supervision order is in force as respects a child or young person, or the court proposes to make such an order at the same time as an order for committal to the care of the local authority, the last-mentioned order shall not be made unless the local authority consent to the making thereof.

(1A) Before making an order under the last foregoing subsection in any case where the consent of the local authority is not required, the court shall, unless so to do would in the opinion of the court cause undue delay, permit the authority to make representations to the court as to the making of the order and shall, before making the order, consider any representations so made.

(1B) In this section the expression ‘the appropriate local authority’ means the local authority in whose area the child or young person was resident, or, if his residence is not known or he was resident outside England, the local authority or one of the local authorities within whose area

PART I.
—cont.

PART I.
—*cont.*

the offence was committed or the circumstances arose (as the case may be) rendering him liable to be committed to the care of a fit person :

Provided that in determining for the purposes of this subsection the place of residence of a child or young person, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a supervision order or probation order or the conditions of a recognisance, or while boarded out under this Act, the Poor Law Act, 1930, the Poor Law (Scotland) Act, 1934, the Children and Young Persons (Scotland) Act, 1937, or Part II of the Children Act, 1948, by a local authority or education authority shall be disregarded."

(2) In the application of this section to Scotland, for references to the Children and Young Persons Act, 1933, and section seventy-six thereof, there shall be substituted references to the Children and Young Persons (Scotland) Act, 1937 and section eighty thereof, for the reference to the Children and Young Persons (Scotland) Act, 1937, there shall be substituted a reference to the Children and Young Persons Act, 1933, and for the word " England " there shall be substituted the word " Scotland."

Application of preceding provisions to children already subject, or becoming subject, to orders of court.

6.—(1) The reception of a child into their care by a local authority under section one of this Act, and the passing of a resolution with respect to him under section two of this Act, shall not affect any supervision order or probation order previously made with respect to him by any court.

(2) Where an order of any court is in force giving the custody of a child to any person, the foregoing provisions of this Part of this Act shall have effect in relation to the child as if for references to the parents or guardian of the child or to a parent or guardian of his there were substituted references to that person.

(3) The following provisions shall have effect with respect to approved school orders and orders under the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, committing children to the care of fit persons, that is to say :—

(a) where an approved school order comes into force with respect to a child in the care of a local authority under section one of this Act he shall thereupon cease to be in the care of the authority under that section and any resolution under section two of this Act in force with respect to him shall thereupon cease to have effect;

- (b) no resolution under the said section two shall be passed with respect to a child while an order is in force committing him to the care of a fit person under the said Act of 1933 or 1937;
- (c) save as aforesaid the provisions of subsection (2) of this section shall apply as if the order were an order giving the custody of the child to the managers of the approved school or the person to whose care he was committed by the order, as the case may be.

(4) Where under section seventy-four of the said Act of 1933 or section seventy-eight of the said Act of 1937, a child is under the supervision of the managers of an approved school or under paragraph 6 of the Fourth Schedule to the said Act of 1933, or paragraph 6 of the Second Schedule to the said Act of 1937, the managers of an approved school by licence permit a child to live away from the school, and in either case it appears to the managers that the child has no home or that his home is unsatisfactory, then with the consent of the managers, in a case falling within the said section seventy-four or seventy-eight, or if the licence so provides, in a case falling within the said paragraph 6, a local authority may (without prejudice to the provisions of section one of this Act if those provisions apply) receive the child into their care; and where they do so—

- (a) the provisions of this Act, except subsections (4) and (5) of section one thereof and so much of subsection (3) of that section as requires a local authority to endeavour to secure that the care of a child is taken over by a parent, guardian, relative or friend, shall apply as if the child had been received into their care under the said section one; but
- (b) the child shall not for the purposes of the said Act of 1933, or the said Act of 1937, be deemed to have ceased to be under the care of the managers of the school.

7.—(1) Where a child in the care of a local authority under section one of this Act is a child for whose welfare the Minister of Pensions is responsible, that Minister may at any time require that the care of the child shall be transferred to him, and thereupon the child shall cease to be in the care of the local authority.

Children in
care of
Minister
of Pensions.

(2) Where immediately before the care of a child is transferred to the said Minister in pursuance of the last foregoing subsection a resolution under section two of this Act is in force with respect to the child, the rights and powers conferred on the local authority by the resolution—

- (a) shall not thereafter be exercisable against the said Minister or so as to interfere with any arrangements

PART I.
—cont.

for the welfare of the child made by the said Minister; but

(b) save as provided in the last foregoing paragraph, shall continue to be exercisable by the local authority so long as the resolution is in force.

(3) References in this section to a child for whose welfare the Minister of Pensions is responsible shall be construed as references to a child such that if he were suffering from neglect or want of proper care it would be the duty of that Minister to make provision for him under section nine of the War Pensions (Administrative Provisions) Act, 1918.

9 & 10 Geo. 5.
c. 53.

Children becoming subject to Mental Deficiency or Lunacy and Mental Treatment Acts.

8. If a child who is in the care of a local authority under section one of this Act comes under the control of any person or authority under the provisions of the Mental Deficiency Acts, 1913 to 1938, or the Lunacy and Mental Treatment Acts, 1890 to 1930, or in Scotland the Mental Deficiency (Scotland) Acts, 1913 and 1940, or the Lunacy (Scotland) Acts, 1857 to 1919, he shall thereupon cease to be in the care of the local authority under this Act; but where, immediately before he comes under the control of a person or authority as aforesaid, a resolution under section two of this Act is in force with respect to him, the rights and powers conferred on the local authority by the resolution shall, so long as the resolution is in force, continue to be exercisable by the local authority, so however that the said rights and powers shall not be exercisable against the person or authority having control of the child or so as to interfere with anything done by the said person or authority with respect to the child.

Meaning of "parents or guardian".

9. Save as expressly provided in section six of this Act, any reference in this Part of this Act to the parents or guardian of a child shall be construed as a reference to all the persons who are parents of the child or who are guardians of the child.

Duty of parents to maintain contact with local authorities having their children in care.

10.—(1) The parent of a child who has not attained the age of sixteen and is in the care of a local authority under section one of this Act shall secure that the appropriate local authority are informed of the parent's address for the time being.

(2) Where under subsection (4) of section one of this Act a local authority take over the care of a child from another local authority, that other authority shall where possible inform the parent of the child that the care of the child has been so taken over.

(3) For the purposes of subsection (1) of this section, the appropriate local authority shall be the authority in whose care the child is for the time being:

Provided that where under subsection (4) of section one of this Act a local authority have taken over the care of a

child from another authority, then unless and until a parent is informed that the care of a child has been so taken over the appropriate local authority shall in relation to that parent continue to be the authority from whom the care of the child was taken over.

PART I.
—cont

(4) Any parent who knowingly fails to comply with subsection (1) of this section shall be liable on summary conviction to a fine not exceeding five pounds:

Provided that it shall be a defence in any proceedings under this subsection to prove that the defendant was residing at the same address as the other parent of the child, and had reasonable cause to believe that the other parent had informed the appropriate authority that both parents were residing at that address.

PART II.

TREATMENT OF CHILDREN IN CARE OF LOCAL AUTHORITIES.

11. This Part of this Act relates to the powers and duties of local authorities in relation to children received by them into their care under section one of this Act and children who by an order of any court under the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, have been committed (whether as children or as young persons as defined in the said Act of 1933 or 1937) to their care as a fit person, and references in this Part of this Act to a child in the care of a local authority are references to a child for the time being in the care of the authority under the said section one or for the time being committed as aforesaid to the care of the authority as a fit person.

Scope of
Part II.

12.—(1) Where a child is in the care of a local authority, it shall be the duty of that authority to exercise their powers with respect to him so as to further his best interests, and to afford him opportunity for the proper development of his character and abilities.

General duty
of local
authority.

(2) In providing for a child in their care, a local authority shall make such use of facilities and services available for children in the care of their own parents as appears to the local authority reasonable in his case.

13.—(1) Subject to the provisions of this section, a local authority shall discharge their duty to provide accommodation and maintenance for a child in their care—

Mode of
provision of
accommoda-
tion and
maintenance.

(a) by boarding him out on such terms as to payment by the authority and otherwise as the authority may, subject to the provisions of this Act and regulations thereunder, determine; or

PART II.
—cont.

- (b) where it is not practicable or desirable for the time being to make arrangements for boarding-out, by maintaining the child in a home provided under this Part of this Act or by placing him in a voluntary home the managers of which are willing to receive him.

11 & 12 Geo. 6.
c. 29.

(2) Where a child in the care of a local authority is under three years of age, a local authority may provide accommodation and maintenance for him in premises in which accommodation is being provided under the National Assistance Act, 1948, being premises approved by the Secretary of State for the purposes of this subsection which are and have since before the commencement of this Act been in use solely as a nursery.

The approval by the Secretary of State of any premises for the purposes of this subsection shall have effect for such period as he may from time to time determine, but—

- (a) the Secretary of State may at any time withdraw his approval notwithstanding that the period for which it was given has not expired,
- (b) the Secretary of State shall not give or continue his approval for the purposes of this subsection unless he is satisfied that suitable alternative accommodation is not for the time being available.

(3) Where a child in the care of a local authority has attained the age of three, the local authority, if it is necessary so to do, may provide accommodation and maintenance for the child in any premises in which accommodation is being provided under the said Act of 1948:

Provided that a child shall not be accommodated and maintained as mentioned in this subsection for any period exceeding fourteen days except with the consent of the Secretary of State; and—

- (a) the Secretary of State shall not give his consent for the purposes of this subsection for a period exceeding eight weeks, but may renew any such consent for a further such period or periods;
- (b) The Secretary of State may at any time withdraw his consent given for the purposes of this subsection notwithstanding that the period for which it was given or renewed has not expired.

(4) A child in the care of a local authority who is over compulsory school age may be accommodated and maintained in any hostel (whether provided by a local authority or not) which is wholly or mainly intended for persons who

are over compulsory school age but have not attained the age of twenty-one.

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—cont.

(5) Nothing in this section shall be construed as preventing a local authority from making use, in the case of any child, of any such facilities and services as are referred to in subsection (2) of the last foregoing section, and for that purpose arranging for his accommodation and maintenance in any suitable manner not specified in the foregoing provisions of this section.

(6) Notwithstanding anything in the foregoing provisions of this section, a local authority may, where it appears to them necessary so to do, accommodate and maintain a child in their care in premises under the control of a local authority other than premises such as are mentioned in the foregoing provisions of this section:

Provided that a local authority shall only exercise their powers under this subsection with the authorisation of the Secretary of State given either generally or as respects particular premises, and subject to such conditions as may be imposed by him.

(7) Where under this section a local authority provide for a child by maintaining him in a home or hostel not provided by the authority, the terms, whether as to payment by the authority or other matters, upon which the child is so maintained shall be such as, subject to the provisions of this Act, may be agreed between the authority and the persons providing the home or hostel.

14.—(1) The Secretary of State may by regulations make provision for the welfare of children boarded out by local authorities under paragraph (a) of subsection (1) of the last foregoing section. Regulations as to boarding-out.

(2) Without prejudice to the generality of the last foregoing subsection, regulations under this section may provide—

- (a) for the recording by local authorities of information relating to persons with whom children are boarded out as aforesaid and persons who are willing to have children so boarded out with them;
- (b) for securing that children shall not be boarded out in any household unless that household is for the time being approved by such local authority as may be prescribed by the regulations;
- (c) for securing that where possible the person with whom any child is to be boarded out is either of the

PART II.
—cont.

same religious persuasion as the child or gives an undertaking that the child will be brought up in that religious persuasion;

- (d) for securing that children boarded out as aforesaid, and the premises in which they are boarded out, will be supervised and inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it.

Duty of local
authorities to
provide
homes.

15.—(1) A local authority may, and shall in so far as the Secretary of State so requires, provide, equip and maintain, either within or without their area, homes for the accommodation of children in their care.

(2) The accommodation provided under the last foregoing subsection by a local authority shall include separate accommodation for the temporary reception of children, with, in particular, the necessary facilities for observation of their physical and mental condition.

(3) A local authority may discharge their functions under the foregoing provisions of this section by making arrangements with another local authority for the provision in homes provided by that other local authority of accommodation for children in the care of the first-mentioned local authority; and arrangements under this subsection may contain provisions as to payment by the first-mentioned local authority and other terms upon which the accommodation is to be provided.

(4) The Secretary of State may make regulations as to the exercise by local authorities of their functions under this section and the conduct of homes provided thereunder and for securing the welfare of the children in the homes, and regulations under this subsection may in particular—

- (a) impose requirements as to the accommodation and equipment to be provided in homes and as to the medical arrangements to be made for protecting the health of the children in the homes;
- (b) impose requirements as to the facilities which are to be given for the children to receive a religious upbringing appropriate to the persuasion to which they belong;
- (c) require the approval of the Secretary of State to the construction, acquisition or appropriation of buildings with a view to the use thereof for the purposes of homes, or to the doing of anything (whether by way of addition, diminution or alteration) which materially affects the buildings or grounds or other facilities or amenities available for children in the homes;

- (d) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home and empower the Secretary of State to prohibit the appointment of any particular applicant therefor except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed by the regulations;
- (e) contain provisions for limiting the period during which children may remain in accommodation provided for the temporary reception of children,

and may contain different provisions for different description of cases and as respects different descriptions of homes.

(5) Where it appears to the Secretary of State that any premises used for the purposes of a home provided under this section are unsuitable therefor, or that the conduct of any such home is not in accordance with regulations made by him under the last foregoing subsection or is otherwise unsatisfactory, he may by notice in writing served on the local authority direct that as from such date as may be specified in the notice the premises shall not be used for the said purposes.

(6) A direction given under the last foregoing subsection may at any time be revoked by the Secretary of State.

16.—(1) Notwithstanding any agreement made in connection with the placing of a child in a voluntary home under this Part of this Act by a local authority, the authority may at any time, and shall if required so to do by the Secretary of State or the managers of the home, remove the child from the home. Accommodation of children in voluntary homes.

(2) No child in the care of a local authority shall be placed in a voluntary home which does not afford facilities for him to receive a religious upbringing appropriate to the persuasion to which he belongs.

17.—(1) A local authority may, with the consent of the Secretary of State, procure or assist in procuring the emigration of any child in their care. Power of local authorities to arrange for emigration of children.

(2) The Secretary of State shall not give his consent under this section unless he is satisfied that emigration would benefit the child, and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going, that the parents or guardian of the child have been consulted or that it is not practicable to consult them, and that the child consents:

Provided that where a child is too young to form or express a proper opinion on the matter, the Secretary of State may consent to his emigration notwithstanding that the child

PART II.
—cont.

is unable to consent thereto in any case where the child is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian, relative or friend.

(3) In the last foregoing subsection the expression " parents or guardian " shall be construed in accordance with the provisions of section nine of this Act.

**Burial or
cremation of
deceased
children.**

18.—(1) A local authority may cause to be buried or cremated the body of any deceased child who immediately before his death was in the care of the authority:

Provided that the authority shall not cause the body to be cremated where cremation is not in accordance with the practice of the child's religious persuasion.

**9 & 10 Geo. 6.
c. 67.**

(2) Where a local authority exercise the powers referred to in subsection (1) of this section, they may if at the time of his death the child had not attained the age of sixteen years recover from any parent of the child any expenses incurred by them under the said subsection (1) and not reimbursed under subsection (5) of section twenty-two of the National Insurance Act, 1946 (which enables payments to be made to local authorities out of the National Insurance Fund in respect of the cost of burial or cremation of certain persons).

(3) Any sums recoverable by a local authority under subsection (2) of this section shall, without prejudice to any other method for the recovery thereof, be recoverable summarily as a civil debt.

(4) Nothing in this section shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

**Provision of
hostels for
persons under
twenty-one.**

19.—(1) A local authority may, with the approval of the Secretary of State, provide hostels for persons—

- (a) who are over compulsory school age but have not attained the age of twenty-one; and
- (b) who are, or have at any time after ceasing to be of compulsory school age been, in the care of a local authority,

for their accommodation near the place where they may be employed, or seeking employment, or in receipt of education or training.

(2) A local authority may accommodate in hostels provided under this section persons who fulfil the conditions specified in paragraph (a), but not the conditions specified in paragraph (b), of subsection (1) of this section, as well as persons who fulfil the conditions specified in both those paragraphs; and a local authority, in determining how much hostel

accommodation to provide under subsection (1) of this section, shall have regard to the desirability of facilitating the association of persons who fulfil the conditions specified in both those paragraphs with persons who do not.

20.—(1) A local authority may make contributions to the cost of the accommodation and maintenance of any such person as is mentioned in subsection (1) of the last foregoing section, being a person who has attained the age of eighteen, in any place near the place where he may be employed, or seeking employment, or in receipt of education or training.

Financial assistance towards expenses of maintenance, education or training of persons over eighteen.

(2) A local authority may make grants to persons who have attained the age of eighteen, but have not attained the age of twenty-one and who immediately before they attained the age of eighteen were in the care of a local authority, to enable them to meet expenses connected with their receiving suitable education or training.

(3) Where a person—

- (a) is engaged in a course of education or training at the time when he attains the age of twenty-one; or
- (b) having previously been engaged in a course of education or training which has been interrupted by any circumstances, resumes the course as soon as practicable,

then if a local authority are at the said time, or were at the time when the course was interrupted, as the case may be, making any contributions or grants in respect of him under any of the foregoing provisions of this section, their powers under those provisions shall continue with respect to him until the completion of the course.

21. The Secretary of State and the Minister of Education, or in Scotland the Secretary of State, may make regulations for providing, where a local authority under this Part of this Act and a local education authority as such have concurrent functions, by which authority the functions are to be exercised, and for determining as respects any functions of a local education authority specified in the regulations whether a child in the care of a local authority is to be treated as a child of parents of sufficient resources or a child of parents without resources.

Allocation of functions as between local authority and local education authority.

22. A local authority may make payments to any parent or guardian of, or other person connected with, a child in their care in respect of travelling, subsistence or other expenses incurred by the parent, guardian or other person in visiting the child or attending his funeral, if it appears to the authority that the parent, guardian or other person would not otherwise be able to visit the child or attend the funeral without undue hardship and that the circumstances warrant the making of the payments.

Power of local authority to defray expenses of parents, etc., visiting children or attending funerals.

PART III.

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN.

Contributions
in respect of
children in
care of local
authority.

23.—(1) Subject to the provisions of this Part of this Act, sections eighty-six to eighty-eight of the Children and Young Persons Act, 1933, and sections ninety to ninety-two of the Children and Young Persons (Scotland) Act, 1937 (which provide for the making of contributions in respect of children committed to the care of a fit person or sent to approved schools and for the payment to local authorities of sums due under affiliation orders or decrees for aliment) shall apply to children received into the care of a local authority under section one of this Act as they apply to children committed to the care of a local authority as a fit person.

(2) Subject to the provisions of this Part of this Act, to the provisions of the said Acts of 1933 and 1937 as to appeals and to the provisions of the said Act of 1937 as to revocation or variation, a contribution order in respect of a child in the care of a local authority under section one of this Act shall remain in force so long as he remains in the care of a local authority under the said section one.

(3) In the application of the said section eighty-eight to children in the care of a local authority under section one of this Act, subsection (4) of the said section eighty-eight (which relates to the duration of affiliation orders) shall have effect as if for paragraphs (a) and (b) thereof there were substituted—

“ after the child or young person has ceased to be in the care of a local authority under section one of the Children Act, 1948.”

Persons liable
to make
contributions.

24.—(1) The persons liable under section eighty-six of the said Act of 1933 or section ninety of the said Act of 1937 to make contributions shall be the persons specified in that behalf in the following provisions of this section, and no others.

(2) The father and the mother of a child shall be liable to make contributions in respect of the child, but only so long as the child has not attained the age of sixteen; and no payments shall be required to be made under a contribution order made on the father or mother of a child in respect of any period after the child has attained that age.

(3) A person who has attained the age of sixteen and is engaged in remunerative full-time work shall be liable to make contributions in respect of himself.

Repeal of
limit to
amount of
contributions.

25. The proviso to subsection (1) of section eighty-seven of the said Act of 1933 and the proviso to subsection (1) of section ninety-one of the said Act of 1937 (under which the aggregate of the weekly amounts payable under contribution

orders and certain affiliation orders in respect of any one child may not exceed such sum as may be prescribed by the Secretary of State) shall cease to have effect.

PART III.
—cont.

26.—(1) In England or Wales, where—

Affiliation
orders.

- (a) an illegitimate child is in the care of a local authority under section one of this Act, or
- (b) an order is in force for the committal of an illegitimate child to the care of a local authority as a fit person, or
- (c) a local authority are maintaining an illegitimate child in an approved school of which they are the managers or are liable in respect of an illegitimate child to make contributions to the managers of any other approved school under whose care the child is,

and no affiliation order has been made in respect of the child, the local authority whose area includes the place where the mother of the child resides may make application to a court of summary jurisdiction having jurisdiction in that place for a summons to be served under section three of the Bastardy Laws Amendment Act, 1872:

35 & 36 Vict.
c. 65.

Provided that no application shall be made under this subsection—

- (i) in a case falling within paragraph (a) of this subsection, after the expiration of three years from the time when the child was received or last received into the care of the local authority or of another local authority from whom the care of the child was taken over by the first-mentioned authority;
- (ii) in a case falling within paragraph (b) or (c) of this subsection, after the expiration of three years from the coming into force of the order mentioned in the said paragraph (b) or, as the case may be, the time when the local authority began to maintain the child or became liable in respect of him, as mentioned in the said paragraph (c).

(2) In any proceedings on an application under the last foregoing subsection the court shall hear such evidence as the local authority may produce, in addition to the evidence required to be heard by section four of the said Act of 1872, and shall in all other respects, but subject to the provisions of the next following subsection, proceed as on an application made by the mother under the said section three.

(3) An order made under section four of the said Act of 1872 on an application under subsection (1) of this section shall provide that the payments to be made under the order

PART III.
—cont.

shall, in lieu of being made to the mother or a person appointed to have the custody of the child, be made to the person who is from time to time entitled under section eighty-six of the said Act of 1933 to receive contributions in respect of the child.

(4) Where in accordance with subsection (4) of section eighty-eight of the Children and Young Persons Act, 1933 (which limits the duration of affiliation orders) an affiliation order has ceased to be in force, and but for that subsection the order would still be in force, then if the condition specified in paragraph (a), (b) or (c) of subsection (1) of this section is fulfilled, the local authority whose area includes the place where the putative father of the child resides may make application to a court of summary jurisdiction having jurisdiction in that place—

(a) for the affiliation order to be revived, and

(b) for payments thereunder to be made to the person who is from time to time entitled under section eighty-six of the said Act of 1933 to receive contributions in respect of the child,

and the court may make an order accordingly.

(5) Part IV of the said Act of 1933 shall apply in relation to an order made on an application under subsection (1) of this section or to an affiliation order revived under the last foregoing subsection as if it were an affiliation order in respect of which an order had been made under subsection (1) of section eighty-eight of that Act.

(6) Paragraph (a) of subsection (2) of the said section eighty-eight of the said Act of 1933 (which paragraph provides for the enforcement and variation of affiliation orders where an order under that section is in force) shall have effect notwithstanding anything in paragraphs 5 and 6 of the Second Schedule to the Emergency Laws (Miscellaneous Provisions) Act, 1947 (which contain general provisions for the variation and revocation of affiliation orders).

II & 12 Geo. 6.
c. 10.

(7) The Secretary of State may issue such new or altered forms of proceedings as he may deem necessary or expedient for giving effect to the foregoing provisions of this section.

(8) In Scotland, where the condition specified in paragraph (a), (b) or (c) of subsection (1) of this section is fulfilled and no decree for aliment has been granted in respect of the child—

(a) the local authority shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child;

- (b) where in an action of affiliation and aliment raised under the last foregoing paragraph, the court grants decree against any person for aliment of the child, Part V of the said Act of 1937 shall apply to payments under the decree as if they were payments in respect of which an order had been made under subsection (1) of section ninety-two of that Act;
- (c) the local authority or other person in whose favour any such order as aforesaid is made shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act, 1882, as if the decree were a decree in favour of the authority or person.

PART III.
—cont.

45 & 46 Vict.
c. 42.

In this subsection, references to the local authority include, where the context so requires, references to the education authority, and the reference to paragraph (c) of subsection (1) of this section shall be construed accordingly.

PART IV.

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS.

27. Section ninety-two of the Children and Young Persons Act, 1933, and section ninety-six of the Children and Young Persons (Scotland) Act, 1937 (which define the expression "voluntary home") shall have effect as if to the reference therein to a home or other institution supported wholly or partly by voluntary contributions there were added a reference to a home or other institution supported wholly or partly by endowments, not being a school within the meaning of the Education Act, 1944, or the Education (Scotland) Act, 1946.

Provisions as to voluntary homes to extend to homes supported wholly or partly by endowments.
7 & 8 Geo. 6. c. 31.
9 & 10 Geo. 6. c. 72.

28. A person shall not be deemed for the purposes of Part V of the Children and Young Persons Act, 1933, or Part VI of the Children and Young Persons (Scotland) Act, 1937, to cease to be a young person until he attains the age of eighteen, and accordingly references to young persons in the said Part V or the said Part VI, or any other enactment in so far as it relates to the said Part V or the said Part VI, shall be construed as including references to all persons over the age of fourteen who have not attained the age of eighteen.

Extension of age limits in provisions relating to voluntary homes.

29.—(1) After the end of the year nineteen hundred and forty-eight no voluntary home shall be carried on unless it is for the time being registered in a register to be kept for the purposes of this section by the Secretary of State.

Registration of voluntary homes.

PART IV.
—cont.

(2) Application for registration under this section shall be made by the persons carrying on or intending to carry on the home to which the application relates, and shall be made in such manner, and accompanied by such particulars, as the Secretary of State may by regulations prescribe.

(3) On an application duly made under the last foregoing subsection—

- (a) if the home to which the application relates was at the commencement of this Act open for the reception of children, the application shall be granted;
- (b) in any other case, the Secretary of State may either grant or refuse the application, as he thinks fit, but where he refuses the application he shall give the applicant notice in writing of the refusal.

(4) Where at any time after the end of the year nineteen hundred and forty-eight it appears to the Secretary of State that the conduct of any voluntary home is not in accordance with regulations made or directions given under section thirty-one of this Act or is otherwise unsatisfactory, he may, after giving to the persons carrying on the home not less than twenty-eight days' notice in writing of his proposal so to do, remove the home from the register.

(5) Any person who carries on a voluntary home in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds and to a further fine not exceeding two pounds in respect of each day during which the offence continues after conviction.

(6) Where—

- (a) a voluntary home is carried on in contravention of the provisions of subsection (1) of this section; or
- (b) notice of a proposal to remove a voluntary home from the register is given under subsection (4) thereof,

the Secretary of State may, notwithstanding that the time for any appeal under the next following section has not expired or that such an appeal is pending, notify the local authority in whose area the home is situated, and require them forthwith to remove from the home and receive into their care under section one of this Act all or any of the children for whom accommodation is being provided in the home; and the local authority shall comply with the requirement whether or not the circumstances of the children are such that they fall within paragraphs (a) to (c) of subsection (1) of the said section one and notwithstanding that any of the children may appear to the local authority to be over the age of seventeen.

For the purpose of carrying out the duty of the local authority under this subsection, any person authorised in that behalf by the local authority may enter any premises in which the home in question is being carried on.

(7) Where the Secretary of State registers a home under this section or removes a home from the register, he shall notify the local authority in whose area the home is situated.

(8) Any notice under this section required to be given by the Secretary of State to the persons carrying on, or intending to carry on, a voluntary home may be given to those persons by being delivered personally to any one of them, or being sent by post in a registered letter to them or any one of them.

For the purposes of section twenty-six of the Interpretation Act, 1889 (which defines "service by post") a letter enclosing a notice under this section to the persons carrying on a voluntary home or any one of them shall be deemed to be properly addressed if it is addressed to them or him at the home. 52 & 53 Vict. c. 63.

(9) Section ninety-five of the Children and Young Persons Act, 1933, and section ninety-nine of the Children and Young Persons (Scotland) Act, 1937, are hereby repealed as from the first day of January, nineteen hundred and forty-nine.

30.—(1) Where under the last foregoing section application for the registration of a voluntary home is refused, or it is proposed to remove a voluntary home from the register, the persons intending to carry on or carrying on the home, as the case may be, may within fourteen days from the giving of the notice under subsection (3) or subsection (4) of that section appeal against the refusal or proposal; and where the appeal is brought against a proposal to remove a home from the register, the home shall not be removed therefrom before the determination of the appeal. Appeals.

(2) An appeal under this section shall be brought by notice in writing addressed to the Secretary of State requiring him to refer the refusal or proposal to an appeal tribunal constituted in accordance with the provisions of Part I of the First Schedule to this Act.

(3) On an appeal under this section the appeal tribunal may confirm the refusal or proposal of the Secretary of State or may direct that the home shall be registered or, as the case may be, shall not be removed from the register, and the Secretary of State shall comply with the direction.

(4) The Lord Chancellor may with the concurrence of the Lord President of the Council make rules as to the practice and procedure to be followed with respect to the constitution of appeal tribunals for the purposes of this section, as to the

PART IV.
—*cont.*

manner of making appeals to such tribunals, and as to proceedings before such tribunals and matters incidental to or consequential on such proceedings; and without prejudice to the generality of the foregoing provisions of this subsection such rules may make provision as to the particulars to be supplied by or to the Secretary of State of matters relevant to the determination of the appeal, and as to representation before such tribunals, whether by counsel or solicitor or otherwise.

(5) The Secretary of State may out of moneys provided by Parliament—

- (a) pay to members of tribunals constituted for the purposes of this section such fees and allowances as he may with the consent of the Treasury determine,
- (b) defray the expenses of such tribunals up to such amount as he may with the like consent determine.

(6) The provisions of the Arbitration Acts, 1889 to 1934, shall not apply to any proceedings before a tribunal constituted for the purposes of this section except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section.

(7) In the application of this section to Scotland, for the reference to Part I of the First Schedule to this Act there shall be substituted a reference to Part II of that Schedule, and for the references to the Lord Chancellor and the Lord President of the Council there shall respectively be substituted references to the Lord President of the Court of Session and to the Secretary of State; and rules made under subsection (4) of this section may make provision for a reference to the Court of Session, by way of stated case, of any question of law arising in such proceedings.

Regulations
as to conduct
of voluntary
homes.

31.—(1) The Secretary of State may make regulations as to the conduct of voluntary homes and for securing the welfare of the children therein, and regulations under this section may in particular—

- (a) impose requirements as to the accommodation and equipment to be provided in homes, authorise the Secretary of State to give directions prohibiting the provision for the children in any home of clothing of any description specified in the directions, and impose requirements as to the medical arrangements to be made for protecting the health of the children in the homes;
- (b) require the furnishing to the Secretary of State of information as to the facilities provided for the parents and guardians of children in the homes to

visit and communicate with the children, and authorise the Secretary of State to give directions as to the provision of such facilities;

- (c) authorise the Secretary of State to give directions limiting the number of children who may at any one time be accommodated in any particular home;
- (d) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home and empower the Secretary of State to prohibit the appointment of any particular applicant therefor except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed by the regulations;
- (e) require notice to be given to the Secretary of State of any change of the person in charge of a home; and
- (f) impose requirements as to the facilities which are to be given for children to receive a religious upbringing appropriate to the persuasion to which they belong,

and may contain different provisions for different descriptions of cases and as respects different descriptions of homes.

(2) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation or any requirement or direction thereunder shall be liable on summary conviction to a fine not exceeding fifty pounds.

32.—(1) Where the Secretary of State by regulations made under section ninety-three of the Children and Young Persons Act, 1933, or section ninety-seven of the Children and Young Persons (Scotland) Act, 1937, varies the particulars which are to be sent by persons in charge of voluntary homes—

Provisions where particulars to be sent of voluntary homes are varied.

- (a) the person in charge of such a home shall send the prescribed particulars to the Secretary of State within three months from the date of the making of the regulations;
- (b) where any such home was established before, but not more than three months before, the making of the regulations, compliance with the last foregoing paragraph shall be sufficient compliance with the requirement of the said section ninety-three or ninety-seven to send the prescribed particulars within three months from the establishment of the home;
- (c) in the year in which the particulars are varied, compliance with paragraph (a) of this subsection by the person in charge of any voluntary home shall be

PART IV.
—cont.

sufficient compliance with the requirement of the said section ninety-three or ninety-seven to send the prescribed particulars before the prescribed date in that year.

(2) Any default in complying with the requirements of paragraph (a) of the last foregoing subsection shall be deemed to be such a default as is mentioned in subsection (2) of the said section ninety-three or in subsection (3) of the said section ninety-seven, as the case may be.

Powers of
Secretary of
State as to
voluntary
organisations.

33.—(1) The Secretary of State may by regulations control the making and carrying out by voluntary organisations of arrangements for the emigration of children.

(2) Any such regulations may contain such consequential and incidental provisions as appear to the Secretary of State to be necessary or expedient, including, in particular, provisions for requiring information to be given to the Secretary of State as to the operations or intended operations of the organisation and for enabling the Secretary of State to be satisfied that suitable arrangements have been or will be made for the children's reception and welfare in the country to which they are going.

(3) The power conferred by Part II of this Act on the Secretary of State to make regulations as to the boarding-out of children by local authorities shall extend also to the boarding-out of children by voluntary organisations:

Provided that in the provisions of the said Part II conferring that power any reference to the supervision and inspection by a local authority of boarded-out children and the premises in which they are boarded out shall, in relation to children boarded out by voluntary organisations, be deemed to be a reference to supervision and inspection either by a local authority or, where it is so provided by or under the regulations, by a voluntary organisation.

(4) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation shall be liable on summary conviction to a fine not exceeding fifty pounds.

After-care
of children
formerly in
care of local
authorities
or voluntary
organisations.

34.—(1) Where it comes to the knowledge of a local authority that there is in their area any child over compulsory school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer,—

(a) in the care of a local authority under section one of this Act, or

(b) in the care of a voluntary organisation,

then, unless the authority are satisfied that the welfare of the child does not require it, they shall be under a duty so long

as he has not attained the age of eighteen to advise and befriend him :

PART IV.
—cont.

Provided that where in a case falling within paragraph (b) of this subsection the local authority are satisfied that the voluntary organisation have the necessary facilities for advising and befriending him, the local authority may make arrangements whereby, while the arrangements continue in force, he shall be advised and befriended by the voluntary organisation instead of by the local authority.

(2) Where a child over compulsory school age—

(a) ceases to be in the care of a local authority under section one of this Act and proposes to reside in the area of another local authority, or

(b) ceases to be in the care of a voluntary organisation, the authority or organisation shall inform the local authority for the area in which the child proposes to reside.

(3) Where it comes to the knowledge of a local authority or a voluntary organisation that a child whom they have been advising and befriending in pursuance of this section proposes to transfer or has transferred his residence to the area of another local authority, the first-mentioned local authority or, as the case may be, the voluntary organisation, shall inform the said other local authority.

PART V.

CHILD LIFE PROTECTION.

35. The following provisions, that is to say—

(a) Part VII of the Public Health Act, 1936, Part XIII of the Public Health (London) Act, 1936, and Part I of the Children and Young Persons (Scotland) Act, 1937 (which provide for the protection of children under the age of nine who are maintained apart from their parents for reward); and

(b) section seven of the Adoption of Children (Regulation) Act, 1939 (which provides for the supervision of children under the age of nine where arrangements are made through third parties for placing them in the care and possession of persons other than their parents),

General extension of Child Life Protection provisions to all children below school leaving age.
26 Geo. 5 & 1 Edw. 8. c. 49.
26 Geo. 5 & 1 Edw. 8. c. 50.
2 & 3 Geo. 6. c. 27.

shall be extended so as to apply to children of compulsory school age who are over the age of nine as they apply to children who are under that age; and subject to the provisions of the next following section references in the said provisions to the age of nine, and to nursing and maintaining, shall be construed accordingly.

PART V.

—cont.

Extension of
certain Child
Life Protection
provisions
to children up
to eighteen.

36. Where any of the provisions specified in paragraphs (a) and (b) of the last foregoing section apply in respect of a child at the time when he ceases to be of compulsory school age, the said provisions and the provisions of this Act relating thereto shall continue to apply in respect of him—

- (a) until the time when he attains the age of eighteen or ceases to live apart from his parents with the person with whom he was living when he ceased to be of compulsory school age;
- (b) if he dies before attaining the age of eighteen and while living as aforesaid, as respects the notice to be given under the said provisions on his death.

Miscellaneous
amendments
of Child Life
Protection
provisions.

8 & 9 Geo. 6.
c. 41.

37.—(1) Where a child one or both of whose parents are dead is being maintained by a person who is not a parent, guardian or relative of his, and by reason of his being so maintained a guardian's allowance under the National Insurance Act, 1946, or a family allowance under the Family Allowances Act, 1945, is payable to that person, the said person shall be treated for the purposes of the provisions specified in paragraph (a) of the last but one foregoing section as having undertaken, on the date hereinafter specified, the nursing and maintenance of the child for reward.

The date hereinbefore referred to is the last of the following dates, that is to say—

- (a) the date on which the application for the allowance was granted or, where the application was granted before the commencement of this Act but so as to take effect at a subsequent date not earlier than the commencement thereof, the date on which the allowance became payable;
 - (b) the date of the death of the first to die of the child's parents;
 - (c) where it is proved that at the later of the dates mentioned in the foregoing paragraphs the person in question had reasonable cause to believe that both parents of the child were alive, the date on which the said person became aware that one of the child's parents had died.
- (2) A voluntary home shall be exempted from the provisions of Part VII of the Public Health Act, 1936, whether or not it is such a home as is mentioned in paragraphs (a) to (c) of subsection (1) of section two hundred and nineteen of that Act.

(3) Nothing in the said Part VII, in Part XIII of the Public Health (London) Act, 1936, or in Part I of the Children and Young Persons (Scotland) Act, 1937, shall

apply in relation to any undertaking given by a person with whom a child is boarded out by the Minister of Pensions, by a local authority under Part II of this Act or by a voluntary organisation.

PART V.
—cont.

(4) The provisions of section seven of the Adoption of Children (Regulation) Act, 1939, shall not have effect in relation to any arrangements for the boarding-out of a child by a voluntary organisation or in relation to any arrangements in which the Minister of Pensions participates.

(5) Nothing in any of the provisions mentioned in section thirty-five of this Act shall apply in relation to a child on whom a requirement as to residence is imposed by a supervision order or probation order.

(6) For the avoidance of doubt it is hereby declared that the references in section two hundred and nineteen of the Public Health Act, 1936, section two hundred and seventy-one of the Public Health (London) Act, 1936, and section eleven of the Children and Young Persons (Scotland) Act, 1937, to hospitals maintained by a Government department include references to hospitals maintained by Regional Hospital Boards on behalf of the Minister of Health or the Secretary of State.

PART VI.

ADMINISTRATIVE AND FINANCIAL PROVISIONS.

38.—(1) In England and Wales, the local authorities for the purposes of this Act and of Parts III and IV of the Children and Young Persons Act, 1933, and the welfare authorities for the purposes of the provisions relating to child life protection of Part VII of the Public Health Act, 1936, shall be the councils of counties and county boroughs, and the local authority for the purposes of Part XIII of the Public Health (London) Act, 1936, shall be the London County Council.

(2) In Scotland, the local authorities for the purposes of this Act shall be the councils of counties and large burghs.

39.—(1) Subject to the provisions of the next following section, every local authority shall establish a children's committee for the purposes of their functions under the following enactments, that is to say—

- (a) Parts III and IV of the Children and Young Persons Act, 1933, or, as the case may be, Parts IV and V of the Children and Young Persons (Scotland) Act, 1937;
- (b) the provisions relating to child life protection of Part VII of the Public Health Act, 1936, the provisions of

PART VI.
—cont.

Part XIII of the Public Health (London) Act, 1936, or the provisions of Part I of the Children and Young Persons (Scotland) Act, 1937, as the case may be;

- (c) the Adoption of Children (Regulation) Act, 1939; and
(d) this Act.

(2) All matters relating to the discharge of the functions of a local authority under the enactments specified in subsection (1) of this section shall stand referred to the children's committee, and except with the consent of the Secretary of State no matter not relating to the discharge of the said functions shall be referred to or dealt with by the children's committee.

(3) Before exercising any of the said functions a local authority shall, unless the matter is urgent, consider a report of the children's committee with respect thereto, and they may authorise the children's committee to exercise on their behalf any of the said functions except the power to borrow money or to levy or to issue a precept for a rate.

(4) The children's committee may include persons specially qualified by reason of experience or training in matters relating to the functions of the committee, notwithstanding that they are not members of the local authority:

Provided that at least a majority of the members of the committee shall be members of the authority.

(5) A children's committee may, subject to any restrictions imposed by the local authority, establish such sub-committees as the children's committee may determine, and any sub-committee established under this subsection shall be constituted in such manner as the children's committee may, subject to any restrictions so imposed, determine, and may include persons specially qualified as aforesaid notwithstanding that they are not members of the local authority or of the children's committee:

Provided that every such sub-committee shall include at least one member of the local authority.

(6) A sub-committee under the last foregoing subsection may be appointed by the children's committees of two or more local authorities jointly, so however that a sub-committee so appointed shall include at least one member of each of the local authorities.

(7) The children's committee or committees by which a sub-committee is appointed under this section may, subject to any restrictions imposed by the local authority or any of the respective local authorities, authorise the sub-committee to exercise on behalf of the children's committee or committees, as the case may be, any of their functions.

(8) The provisions of subsection (2) of this section shall not prevent a local authority from referring to any committee appointed by them other than the children's committee any matter relating to the discharge of their functions under the enactments specified in subsection (1) of this section which, by reason that it relates also to a general service of the authority, ought in the opinion of the authority to be so referred, and the provisions of subsections (2) and (3) of this section shall not apply to any matter which is so referred:

Provided that before deciding on any proposal for a reference under this subsection, the local authority shall receive and consider a report on the proposal from the children's committee.

40.—(1) If, before a local authority have appointed a children's committee under the last foregoing section, the Secretary of State is satisfied that owing to special circumstances the authority can better discharge their functions under the enactments specified in subsection (1) of that section without establishing a children's committee, he may direct that the said section shall not apply to the authority.

Modification,
in certain
cases, of
requirements
of last
foregoing
section.

(2) If, at any time after three years from the commencement of this Act, a local authority which have established a children's committee satisfy the Secretary of State that owing to special circumstances the authority can better discharge their functions under the enactments specified in subsection (1) of the last foregoing section without a children's committee, the Secretary of State may direct that thenceforth the said section shall not apply to the authority.

(3) A direction under subsection (1) or subsection (2) of this section may be revoked by the Secretary of State either—

(a) on the application of the local authority concerned;
or

(b) without any such application, if the Secretary of State is of the opinion that experience of the arrangements made by the authority for the discharge of their functions under the enactments specified in subsection (1) of the last foregoing section has shown that the arrangements are not satisfactory.

(4) Nothing in this or the last foregoing section shall be construed as prejudicing the powers conferred by section ninety-one of the Local Government Act, 1933, as to the appointment of joint committees, and references to the appointment of a children's committee by an authority, and to the children's committee of an authority, shall accordingly be construed, as respects England and Wales, as including

23 & 24 Geo. 5.
c. 51.

PART VI.
—*cont.*

references to concurrence in the appointment of a joint committee under the said section ninety-one, and to any joint committee so appointed; and the requirement of the last foregoing section that a sub-committee shall include at least one member of the local authority shall, in relation to a sub-committee of any such joint committee, be construed as a requirement that the sub-committee shall include at least one member of each local authority.

10 & 11 Geo. 6.
c. 43.

(5) In Scotland, any two or more local authorities may agree to combine in the establishment of a children's committee for the discharge of their functions under the enactments specified in subsection (1) of the last foregoing section, and the provisions of sections one hundred and nineteen and one hundred and twenty-one of the Local Government (Scotland) Act, 1947, shall apply in so far as they are not inconsistent with the provisions of the last foregoing section. In relation to a sub-committee of any such joint committee, the requirement of the last foregoing section that a sub-committee shall include one member of the local authority shall be construed as a requirement that a sub-committee shall include at least one member of each local authority:

Provided that nothing in this or the last foregoing section shall be construed as precluding a local authority from joining another local authority in establishing remand homes in accordance with the provisions of subsection (1) of section eighty-one of the Children and Young Persons (Scotland) Act, 1937, and subsections (2) and (3) of the last foregoing section shall not apply to any arrangement so made.

The children's
officer.

41.—(1) For the purposes of their functions under the enactments specified in subsection (1) of section thirty-nine of this Act, a local authority shall in accordance with the provisions of this section appoint an officer to be known as the children's officer.

(2) A local authority shall not appoint a person to be the children's officer except after consultation with the Secretary of State, and for the purpose of such consultation shall send to the Secretary of State particulars showing the name, age, experience and qualifications of the persons from whom they propose to make a selection, and if the Secretary of State is of opinion that any of those persons is not a fit person to be the children's officer of the authority he may give directions prohibiting his appointment:

Provided that the Secretary of State may, if he thinks fit so to do in the case of the first appointment made under this section by any particular local authority, dispense with compliance with this subsection if the authority are proposing to appoint a person who, on the date of the passing of this

Act, was performing as an officer of the authority functions corresponding to those falling to be performed after the commencement of this Act by the children's officer.

PART VI.
—cont.

(3) Where the Secretary of State is satisfied that the same person can efficiently discharge the functions of children's officer for two or more local authorities, he may approve the appointment of one person as the children's officer by each of the authorities.

(4) The children's officer of an authority shall not, except with the consent of the Secretary of State, be employed by that authority in any other capacity.

(5) A local authority shall secure the provision of adequate staff for assisting the children's officer in the exercise of his functions.

(6) The provisions as to remuneration and tenure of office contained in sections one hundred and five and one hundred and six of the Local Government Act, 1933, section seventy-five of the London Government Act, 1939, or sections eighty-two and ninety-two of the Local Government (Scotland) Act, 1947, as the case may be, shall apply to children's officers.

42.—(1) Local authorities shall exercise their functions under the enactments specified in subsection (1) of section thirty-nine of this Act (including any discretion conferred on them thereunder) under the general guidance of the Secretary of State.

Powers of Secretary of State with respect to functions of local authorities.

(2) Sections three hundred and twenty-two, three hundred and twenty-four and three hundred and twenty-five of the Public Health Act, 1936 (which make provision for the exercise by the Minister of Health of certain functions otherwise exercisable by certain authorities) shall not apply in relation to any functions of local authorities under Part VII of that Act, being functions relating to child life protection.

43.—(1) There shall be a council, to be known as the Advisory Council on Child Care, for the purpose of advising the Secretary of State on matters connected with the discharge of his functions in England and Wales under this Act, Parts IV and V of the Children and Young Persons Act, 1933, or any of the enactments specified in paragraphs (b) and (c) of subsection (1) of section thirty-nine of this Act.

Advisory Council on Child Care.

(2) The said council shall consist of such persons, to be appointed by the Secretary of State, as the Secretary of State may think fit, being persons specially qualified to deal with matters affecting the welfare of children and persons having such other qualifications as the Secretary of State considers requisite.

PART VI.
—*cont.*

Among the persons appointed under this subsection there shall be persons having experience in local government.

(3) The Secretary of State shall appoint a person to be chairman, and a person to be the secretary, of the said council.

(4) It shall be the duty of the said council to advise the Secretary of State on any matter which the Secretary of State may refer to them, being such a matter as is mentioned in subsection (1) of this section, and they may also, of their own motion, make representations to the Secretary of State as respects any such matter as is mentioned in that subsection.

(5) The Secretary of State may make out of moneys provided by Parliament such payments to the members of the said council in respect of travelling, subsistence and other expenses as he may with the consent of the Treasury determine.

Advisory
Council on
Child Care for
Scotland.

44.—(1) There shall be a separate Advisory Council on Child Care for Scotland, for the purpose of advising the Secretary of State on matters connected with the discharge of his functions under this Act, Parts I, V and VI of the Children and Young Persons (Scotland) Act, 1937, and the Adoption of Children (Regulation) Act, 1939, and the provisions of subsections (2) to (4) of the last foregoing section shall apply accordingly.

(2) The Secretary of State may require the Advisory Council to appoint, and the council with the approval of the Secretary of State shall have power to appoint, committees to deal with any matter mentioned in the last foregoing subsection.

(3) Any committee appointed under the last foregoing subsection shall include such persons as may be nominated by the Secretary of State, being persons, other than members of the council, having special knowledge or experience of the subject with which the committee is required to deal.

(4) A report of any such committee shall be submitted to the Secretary of State by the council, who may make such comments thereon as they think fit.

(5) The Secretary of State may make out of moneys provided by Parliament such payments to the members of the said council and to the members of any committees appointed under the provisions of this section, in respect of travelling, subsistence and other expenses as he may with the consent of the Treasury determine.

45.—(1) The Secretary of State with the consent of the Treasury may out of moneys provided by Parliament defray or contribute towards any fees or expenses incurred by persons undergoing training approved by the Secretary of State with a view to, or in the course of, their employment for the purposes of any of the enactments specified in subsection (1) of section thirty-nine of this Act, or their employment by a voluntary organisation for similar purposes, and may defray or contribute towards the cost of maintenance of persons undergoing such training.

PART VI.
—cont.
Grants for training in child care.

(2) The Secretary of State may out of moneys provided by Parliament make grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred by any body of persons in providing courses suitable for persons undergoing training as aforesaid.

46.—(1) The Secretary of State may make out of moneys provided by Parliament grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred or to be incurred by voluntary organisations, in circumstances such that it appears to the Secretary of State requisite that the grants should be made, for improving premises in which voluntary homes are being carried on or the equipment of voluntary homes, or for securing that voluntary homes will be better provided with qualified staff.

Grants to voluntary organisations.

(2) A local authority may, with the consent of the Secretary of State, make contributions to any voluntary organisation the object or primary object of which is to promote the welfare of children.

47.—(1) There shall be paid out of moneys provided by Parliament to a local authority in respect of expenditure incurred by them for the purpose of the discharge of their functions under any of the enactments specified in subsection (1) of section thirty-nine of this Act, other than expenses incurred as managers of an approved school or in respect of children sent to an approved school or in respect of remand homes,—

Grants to local authorities.

- (a) such sums not exceeding fifty per cent. of the expenditure as the Secretary of State may with the consent of the Treasury direct, and subject to such conditions as he may with the like consent determine;
- (b) such additional sums as he may with the like consent direct as representing the share appropriate to the

PART VI.
—cont.

local authority of sums received under the provisions of the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, as the case may be, as to contributions towards expenses, or under subsection (3), or paragraph (b) of subsection (8), of section twenty-six of this Act, and paid over to the Secretary of State, other than such sums so paid over which were received in respect of children sent to approved schools,

subject however to the deduction of an amount equal to such proportion not exceeding fifty per cent. as the Secretary of State may with the consent of the Treasury determine of so much of the expenditure incurred by the Secretary of State under the two last foregoing sections as he may with the like consent allocate to that authority.

(2) No payment shall be made under section one hundred and four of the Children and Young Persons Act, 1933, or section one hundred and seven of the Children and Young Persons (Scotland) Act, 1937, (which provide for Exchequer grants for certain expenditure under those Acts) in respect of any expenditure in respect of which payments are authorised to be made under the last foregoing subsection.

Administrative
expenses of
Secretary of
State.

48. The administrative expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.

Accounts of
councils of
county
boroughs.

49.—(1) The council of every county borough shall keep separate accounts of the sums received and expended by them in the exercise of their functions under any of the enactments mentioned in subsection (1) of section thirty-nine of this Act, other than sums received or expended by them as managers of an approved school or in respect of children sent to an approved school or in respect of remand homes.

(2) The accounts to be kept under this section shall be made up and audited in like manner as the accounts of a county council.

(3) The enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council.

PART VII.

MISCELLANEOUS AND GENERAL.

50. In section four of the Guardianship of Infants Act, 1925, the following subsection shall be inserted after subsection (2):—

Appointment of guardians.
15 & 16 Geo. 5.
c. 45.

“(2A) Where an infant has no parent, no guardian of the person, and no other person having parental rights with respect to him, the court, on the application of any person, may if it thinks fit appoint the applicant to be the guardian of the infant.”

51.—(1) Local authorities shall make provision, in homes provided by them under Part II of this Act, for the reception and maintenance of children removed to a place of safety under the Children and Young Persons Act, 1933, the Children and Young Persons (Scotland) Act, 1937, the Public Health Act, 1936, the Public Health (London) Act, 1936, or the Adoption of Children (Regulation) Act, 1939.

Provisions as to places of safety.

(2) The provision to be made in pursuance of the last foregoing subsection shall as far as practicable be made in such separate accommodation for the temporary reception of children as is required to be provided by subsection (2) of section fifteen of this Act.

(3) Where under any of the enactments mentioned in subsection (1) of this section a child is removed to a place of safety not being a home provided by a local authority under Part II of this Act and not being a hospital vested in the Minister of Health or the Secretary of State, the expenses of the child's maintenance there shall be recoverable from the local authority within whose area the child was immediately before his removal.

52.—(1) In section eleven of the Family Allowances Act, 1945, the following subsection shall be substituted for subsection (3):—

Amendment of Family Allowances Act, 1945.
ss. 11 and 26.

“(3) A child in respect of whom there is in force a resolution of a local authority passed under subsection (1) of section two of the Children Act, 1948, shall not, for the purposes of this Act, be treated as included in any family:

Provided that this subsection shall not have effect as respects any period during which under the provisions of section three or section four of the said Act of 1948 the child is allowed by the local authority to be, either for a fixed period or otherwise, under the control of a parent, guardian, relative or friend of the child.”

(2) Subsection (1) of this section shall have effect both as respects England and Wales and as respects Scotland.

PART VII.
—cont.

(3) For the avoidance of doubt it is hereby declared that references in the said section eleven to an order or resolution made or passed under any enactment include references to an order or resolution which by virtue of any other provision is deemed to be made or passed under the said enactment.

Enforcement
of orders for
payment of
money under
Guardianship
of Infants
Acts.
49 & 50 Vict.
c. 27.

53. An order of a court of summary jurisdiction for the payment of money under the Guardianship of Infants Act, 1886, whether made before or after the commencement of this Act, may be enforced, varied or revoked in like manner as an affiliation order, and the enactments relating to affiliation orders shall apply accordingly, with the necessary modifications.

Provisions as
to entry and
inspection.

54.—(1) In section one hundred and three of the Children and Young Persons Act, 1933, and section one hundred and six of the Children and Young Persons (Scotland) Act, 1937, (which provide for the appointment by the Secretary of State of inspectors for the purposes of the enactments relating to children and young persons) the references to the enactments relating to children and young persons shall include references to this Act.

(2) Any inspector appointed under the said section one hundred and three or the said section one hundred and six may enter any of the following places, that is to say—

- (a) any premises provided by a local authority under Part II of this Act;
- (b) any premises in which under subsection (2) or subsection (3) of section thirteen of this Act accommodation and maintenance are for the time being provided for a child in the care of a local authority;
- (c) any place where a foster child within the meaning of Part VII of the Public Health Act, 1936 or Part XIII of the Public Health (London) Act, 1936, is being maintained;
- (d) any place where a child in respect of whom a notice is required to be given under Part I of the Children and Young Persons (Scotland) Act, 1937, is being maintained;
- (e) any place where a child is being maintained in pursuance of any arrangements to which subsection (1) of section seven of the Adoption of Children (Regulation) Act, 1939 (which relates to arrangements for taking over the care of children effected through third parties) applies; and
- (f) any place where a child is for the time being boarded out either by a local authority or by a voluntary organisation,

and inspect the place and any children therein.

(3) It shall be the duty of local authorities from time to time to cause children in voluntary homes in their area to be visited in the interests of the wellbeing of the children, and any person authorised in that behalf by a local authority may enter any voluntary home in the area of the authority for the purpose of visiting the children in the home.

(4) Any person authorised in that behalf by a local authority may enter any voluntary home outside the area of the authority for the purpose of visiting children in the home who are in the care of the authority under section one of this Act or are for the time being committed to the care of the authority as a fit person by an order of any court under the Children and Young Persons Act, 1933 or the Children and Young Persons (Scotland) Act, 1937.

(5) Nothing in the two last foregoing subsections shall apply to a voluntary home which, otherwise than by virtue of section ninety-four of the said Act of 1933 or section ninety-eight of the said Act of 1937, is as a whole subject to inspection by, or under the authority of, a Government department.

(6) A person who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power.

(7) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

55.—(1) In England and Wales, a local authority may institute proceedings for any offence under this Act, the provisions of the Children and Young Persons Act, 1933, other than the provisions of Parts I and II thereof, or the provisions relating to child life protection of Part VII of the Public Health Act, 1936, or Part XIII of the Public Health (London) Act, 1936. Prosecution
of offences.

(2) Subsection (5) of section twenty-three and subsection (1) of section one hundred and two of the Children and Young Persons (Scotland) Act, 1937 shall cease to have effect.

56.—(1) The council of a county borough may be authorised by the Minister of Health to purchase compulsorily any land, whether situated within or outside the area of the council, for the purpose of any of their functions under this Act; and the council of a county or large burgh in Scotland may be authorised by the Secretary of State to purchase compulsorily any land, whether situated within or outside the county or burgh, for the purpose of any of their functions under this Act. Acquisition
of land.

PART VII.
—*cont.*
9 & 10 Geo. 6.
c. 49.

(2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to the compulsory purchase of land under this section by the council of a county borough as, by virtue of subsection (1) of section one hundred and fifty-nine of the Local Government Act, 1933, it applies to the compulsory purchase of land by a county council for the purpose of their functions under this Act; and accordingly for the purposes of the said Act of 1946 subsection (1) of this section shall be deemed to have been in force immediately before the commencement of that Act.

(3) Section two of the said Act of 1946 (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the acquisition of land for the purposes of this Act, whether by a county council or by a county borough council.

10 & 11 Geo. 6.
c. 42.

(4) 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 this section as if subsection (1) thereof had been in force immediately before the commencement of the said Act.

Transfer,
super-
annuation and
compensation
of officers.

57.—(1) The Secretary of State may by regulations provide—

- (a) for the transfer to a local authority of officers employed immediately before the commencement of this Act by the Common Council of the City of London or the council of a metropolitan borough or county district solely or mainly for the purposes of functions transferred by this Act from that council to the said local authority;
- (b) for enabling the Common Council of the City of London and the council of any metropolitan borough or county district in the case of any officer of the council who is a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act, 1937, and is transferred under the regulations to secure, by resolution passed in respect of him not later than three months after his transfer under the regulations, that for the purposes of the said Act of 1937 any non-contributing service of his shall be reckonable as contributing service and, in the case of any such officer on whom if he had remained in their employment a similar benefit could have been conferred by the council on his becoming entitled to a superannuation allowance, that the length of his service shall be deemed for the purposes of the said Act of 1937 or, as the case may be, the local Act in question, to be increased by such period as may be specified in the resolution;

1 Edw. 8 &
1 Geo. 6. c. 68.

- (c) for granting to persons who immediately before being transferred under the regulations were, by virtue of the employment from which they are so transferred, entitled to participate in superannuation benefits, an option either to participate, by virtue of their employment by the local authority to which they are transferred under the regulations, in superannuation benefits under a superannuation scheme of the local authority specified in the regulations or to retain rights corresponding with those previously enjoyed by them;
- (d) for the payment by local authorities, subject to such exceptions or conditions (if any) as may be prescribed by the regulations, of compensation to persons of such descriptions as may be so prescribed who immediately before such date as may be so prescribed were employed by the Common Council of the City of London, the council of a metropolitan borough or the council of a county district in such full-time work as may be prescribed by the regulations and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of this Act;
- (e) for extending any provision made under paragraph (d) of this subsection to persons of such descriptions as may be prescribed by the regulations who, having before such date as aforesaid been employed as aforesaid and being persons who would have been so employed immediately before that date but for any national service (as defined in the regulations) in which they have been engaged, lose the prospect of their re-employment in any such work as a consequence of the passing of this Act;
- (f) for such matters supplementary to and consequential on the matters aforesaid as appear to the Secretary of State to be necessary.

(2) Regulations under this section may provide for the determination by the Secretary of State of all questions arising under the regulations and may make different provisions for different classes of cases.

58.—(1) Any power to make regulations or orders conferred on a Minister by this Act shall be exercisable by statutory instrument. Regulations and orders.

(2) Any statutory instrument made in the exercise of any power to make regulations conferred by this Act shall be subject to annulment in pursuance of resolution of either House of Parliament.

PART VII. 59.—(1) In this Act, except where the context otherwise
 —*cont.* requires, the following expressions have the meanings hereby
Interpretation. assigned to them respectively:—

“ approved school order ” has the same meaning as in the Children and Young Persons Act, 1933, or, as respects Scotland, the Children and Young Persons (Scotland) Act, 1937;

“ child ” means a person under the age of eighteen years;

“ complain ” in relation to Scotland means to make an application, and the expressions “ complaint ” and “ complainant ” shall be construed accordingly;

“ compulsory school age ” has in England and Wales the same meaning as in the Education Act, 1944, and in Scotland means school age as defined in the Education (Scotland) Act, 1946;

“ contribution order ” means in England or Wales a contribution order under section eighty-seven of the Children and Young Persons Act, 1933, and in Scotland a contribution order under section ninety-one of the Children and Young Persons (Scotland) Act, 1937;

“ functions ” includes powers and duties;

“ guardian ” means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child;

“ hospital ” has the meaning assigned to it by section seventy-nine of the National Health Service Act, 1946, or, as respects Scotland, section eighty of the National Health Service (Scotland) Act, 1947;

“ Large burgh ” has the same meaning as in the Local Government (Scotland) Act, 1947;

“ local education authority ” means a local education authority for the purposes of the Education Act, 1944, or in Scotland an education authority for the purposes of the Education (Scotland) Act, 1946;

“ parent ”—

(a) in relation to a child adopted in pursuance of any enactment, means the person or persons by whom he was adopted, to the exclusion of his natural parents;

(b) in relation to a child who is illegitimate, means his mother, to the exclusion of his father;

“ precept for a rate ”, in relation to Scotland, means requisition for a rate;

“ recognisance ”, in relation to Scotland, means bond;

“ recoverable summarily as a civil debt ”, in relation to Scotland, means recoverable as a civil debt;

9 & 10 Geo. 6.
 c. 81.
 10 & 11 Geo. 6.
 c. 27.

“ relative ” has, throughout Great Britain, the meaning assigned to it by section two hundred and twenty of the Public Health Act, 1936;

“ voluntary home ” has the same meaning as in Part V of the Children and Young Persons Act, 1933, or, as respects Scotland, Part VI of the Children and Young Persons (Scotland) Act, 1937;

“ voluntary organisation ” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

(2) Any reference in this Act to the functions of a local authority under the Children and Young Persons Act, 1933 shall be construed as including a reference to the functions of the council of a county or county borough with respect to remand homes.

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

(4) As respects Scotland any reference in this Act to a county or to the council thereof shall be construed, in relation to counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, as a reference to the combined county or the joint county council.

(5) A small burgh, as defined in the said Act of 1947, shall for the purposes of this Act be deemed to be included in the county in the area of which it is situated.

60.—(1) The transitional provisions set out in the Second Schedule to this Act shall have effect for the purposes of this Act. Transitional provisions, minor amendments and repeals.

(2) The enactments specified in the Third Schedule to this Act shall have effect subject to the amendments specified therein, being minor amendments and amendments consequential on the provisions of this Act.

(3) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that the repeal of the enactments specified in Part II of that Schedule shall take effect only on the first day of January, nineteen hundred and forty-nine.

61. This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as may be prescribed by order of the Secretary of State, and any such order may be revoked or varied by a subsequent order. Application to Isles of Scilly.

PART VII.
—cont.
Short title,
commence-
ment and
extent.

- 62.—(1) This Act may be cited as the Children Act, 1948.
(2) This Act shall come into operation on the fifth day of July, nineteen hundred and forty-eight.
(3) This Act shall not extend to Northern Ireland.

Section 30.

SCHEDULES.

FIRST SCHEDULE.

APPEAL TRIBUNALS.

PART I.

CONSTITUTION OF APPEAL TRIBUNALS FOR ENGLAND AND WALES.

1. For the purpose of enabling appeal tribunals to be constituted as occasion may require, there shall be appointed two panels, that is to say—

- (a) a panel (hereinafter referred to as the “legal panel”) appointed by the Lord Chancellor, of persons who will be available to act when required as chairman of any such tribunal; and
(b) a panel (hereinafter referred to as the “welfare panel”) appointed by the Lord President of the Council, of persons who will be available to act when required as members of any such tribunal.

2.—(1) No person shall be qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable, and no person shall be qualified to be appointed to the welfare panel unless he has had such experience in children’s welfare work as the Lord President of the Council considers suitable.

(2) An officer of any Government department shall be disqualified from being appointed to either of the said panels.

3. Any person appointed to be a member of either of the said panels shall hold office as such subject to such conditions as to the period of his membership and otherwise as may be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.

4. Where any appeal is required to be determined by a tribunal constituted in accordance with this Part of this Schedule, the tribunal shall consist of a chairman being a member of the legal panel and two other members being members of the welfare panel, and the chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively.

PART II.

CONSTITUTION OF APPEAL TRIBUNALS FOR SCOTLAND.

5. For the purpose of enabling appeal tribunals to be constituted as occasion may require, there shall be appointed by the Secretary of State a panel (hereinafter referred to as the “welfare panel”) of persons to act when required as members of any such tribunal.

6. No officer of any Government department shall be qualified to be appointed to the welfare panel.

7. Any person appointed to be a member of the welfare panel shall hold office for such period and subject to such conditions as may be determined by the Secretary of State.

8. Where any appeal is required to be determined by a tribunal constituted in accordance with this Schedule, the tribunal shall consist of a sheriff (or, if he is unable to act, a person qualified for appointment as sheriff nominated by the Lord President of the Court of Session), who shall be chairman, and two other members being impartial persons who shall be appointed from the welfare panel by the Secretary of State.

9. In this Part of this Schedule the expression "sheriff" does not include sheriff-substitute, and means the sheriff of the county in which the voluntary home to which the appeal relates is situated or is proposed to be established.

SECOND SCHEDULE.

Section 60.

TRANSITIONAL PROVISIONS.

1.—(1) Where, immediately before the commencement of this Act, a child was being relieved by a local authority under the enactments relating to the relief of the poor, and the relief was not outdoor relief, the provisions of this Act shall apply to him as if, at the commencement of this Act, he were in the care of the authority under section one thereof:

Provided that if the child has then attained the age of sixteen, or is being relieved as aforesaid together with a parent or other person in charge of him who has attained that age, this paragraph shall not apply if it appears to the authority more appropriate that the child should be treated as a person for whom accommodation is being provided under the National Assistance Act, 1948.

(2) If, immediately before the commencement of this Act, the cost of the relief referred to in the last foregoing sub-paragraph was recoverable by the local authority therein referred to from another local authority, the provisions of subsection (4) of section one of this Act shall apply to the child as if the first-mentioned authority had received him into their care as a child ordinarily resident in the area of that other authority.

2. Where, immediately before the commencement of this Act, a 20 & 21 Geo. 5. resolution passed under section fifty-two of the Poor Law Act, 1930, c. 17. was in force with respect to a child, it shall, as from the commencement of this Act, be deemed to be a resolution duly passed and notified under section two of this Act.

3.—(1) Where immediately before the commencement of this Act an order made under subsection (1) of section sixty-one or subsection (2) of section sixty-six of the Children and Young Persons (Scotland) Act, 1937, or subsection (2) of section thirty-eight of the Education (Scotland) Act, 1946, was in force committing a child to the care of an education authority as a fit person, that order shall

2ND SCH.
—cont.

as from the commencement of this Act be deemed to be an order committing him to the care of the council of the county, or county of a city comprised in the area of that education authority.

(2) Subsection (4) of section one of this Act shall apply to any such child as aforesaid in like manner as it applies to a child received by a local authority into their care.

4.—(1) Any rules of the Secretary of State in force immediately before the commencement of this Act under subsection (2) of section eighty-four of the Children and Young Persons Act, 1933, or subsection (2) of section eighty-eight of the Children and Young Persons (Scotland) Act, 1937, with respect to the boarding-out of children and young persons committed to the care of local authorities or, as the case may be, education authorities, under those Acts respectively shall, as from the commencement of this Act, have effect as if—

- (a) they were regulations made under Part II of this Act; and
- (b) they had been made so as to apply to children in the care of a local authority under section one of this Act in like manner as to children committed to the care of a local authority or education authority as a fit person,

and shall continue in force, and may be revoked and varied, accordingly.

(2) Where immediately before the commencement of this Act a child was boarded out under subsection (3) of the said section eighty-four or subsection (3) of the said section eighty-eight, then as from the commencement of this Act the boarding-out shall be deemed to be effected under Part II of this Act.

(3) Anything done before the commencement of this Act under any order made under the Poor Law Act, 1930, or under any regulations made under the Poor Law (Scotland) Act, 1934, being an order or regulations relating to the boarding-out of children and in force immediately before the commencement of this Act, shall be deemed to have been done under the corresponding provision of the said rules.

5. A contribution order made before the commencement of this Act shall not as respects any period after the commencement of this Act operate so as to require the making of any payment which could not have been required if this Act had been in force when the contribution order was made.

6.—(1) Any maintenance order in respect of a child in force immediately before the commencement of this Act under section nineteen of the Poor Law Act, 1930, shall, if at the commencement of this Act the child was under the care of the managers of an approved school, be deemed for the purposes of the Children and Young Persons Act, 1933, and of this Act to be a contribution order made on the sending of the child to the approved school.

(2) Paragraph (a) of subsection (5) of section ninety of the Children and Young Persons Act, 1933 (which contains special provisions as to contributions by poor law authorities to the expenses of approved schools) shall cease to have effect, and for the purposes of subsection (1) of the said section ninety (by which certain local authorities named

in approved school orders are required to make contributions to the said expenses) where an approved school order has been made on the application of a local authority, being a poor law authority, in their capacity as poor law authority, the authority shall be deemed to have been named in the approved school order as being the authority within whose district the person to whom the order relates was resident.

(3) Paragraph (a) of subsection (4) of section ninety-four of the Children and Young Persons (Scotland) Act, 1937 (which contains special provisions as to contributions by poor law authorities to the expenses of approved schools in Scotland) shall cease to have effect, and for the purposes of subsection (1) of the said section ninety-four (by which the education authority named in an approved school order is required to make contributions to the said expenses) where an approved school order has been made on the application of a poor law authority and no education authority has been named therein the education authority of the area which comprises the area of the poor law authority by whom the application was made shall be deemed to have been so named.

7. Where by virtue of the provisions of Part IV of this Act a home established before the commencement of this Act becomes a voluntary home within the meaning of Part V of the Children and Young Persons Act, 1933, or Part VI of the Children and Young Persons (Scotland) Act, 1937, the home shall, for the purposes of the said Part V or the said Part VI, be deemed to have been established at the commencement of this Act.

8.—(1) Any land which immediately before the commencement of this Act was held by a local authority solely for the purposes of a children's home shall be deemed to have been appropriated under the Local Government Act, 1933, the London Government Act, 1939, 2 & 3 Geo. 6. or the Local Government (Scotland) Act, 1947, as the case may be, c. 40. for the purposes of a home to be provided under Part II of this Act.

(2) Where a local authority have taken any steps for the compulsory acquisition of land for the purposes of a children's home but the acquisition has not been completed at the commencement of this Act, anything duly done before the commencement thereof in relation to the acquisition shall have effect as if it had been duly done in relation to the compulsory acquisition of the land for the purposes of a home to be provided by the authority under Part II of this Act.

(3) In this paragraph the expression "children's home," does not include any premises provided or to be provided under the Public Health Act, 1936, the Public Health (London) Act, 1936, or the Notification of Births (Extension) Act, 1915.

5 & 6 Geo. 5.
c. 64.

9. Where in consequence of the passing of the National Health Service Act, 1946, a person became employed by the council of a county or county borough in their capacity as a local health authority and there is conferred on him by any regulations made under that Act an option, exercisable by virtue of that employment, to retain rights to superannuation benefits corresponding to those previously enjoyed by him, then if in consequence of the passing of this Act that person becomes employed by the said council for the purposes of a home provided under Part II thereof, he shall have the like rights in connection with the option as if his employment for the said purposes were employment by a local health authority.

2ND SCH.
—cont.

10.—(1) Where by virtue of section thirty-five or thirty-seven of this Act the provisions of Part VII of the Public Health Act, 1936, Part XIII of the Public Health (London) Act, 1936, or Part I of the Children and Young Persons (Scotland) Act, 1937, become applicable to a child at the commencement of this Act, those provisions and the following provisions of this Schedule shall have effect as if the child had been received for reward at the commencement of this Act.

(2) Where by virtue of the said section thirty-five or thirty-seven the first mentioned provisions become applicable to a child at, or within one month after, the commencement of this Act, any notice required to be given before the reception of the child may be given within one month after the commencement of this Act:

Provided that nothing in this sub-paragraph shall exclude or postpone, as regards any child, the operation of any provision of the said Part VII or the said Part XIII relating to foster children or of the said Part I relating to children in respect of whom a notice is required to be given.

(3) Where by virtue of the said section thirty-five or thirty-seven the said provisions become applicable to a child at the commencement of this Act, any notice required to be given before a change of residence may, if the change takes place not later than one month after the commencement of this Act, be given at any time before the expiration of the said month, and if such a notice is duly given no notice under the said provisions need be given in connection with the reception of the child.

(4) In the case of a child who at the commencement of this Act and by virtue of the said section thirty-five or thirty-seven becomes a foster child as defined in the said Part VII or the said Part XIII, or a child in respect of whom a notice is required to be given under the said Part I, a person shall not be guilty of an offence against the provisions of the said Part VII, Part XIII or Part I requiring in certain cases the consent of the welfare authority or local authority for the keeping of children if, not later than one month after the commencement of this Act, application for that consent was made and the child in question is not kept after notification has been received of the refusal of the application or after the expiration of such longer period as the welfare authority or local authority may allow.

(5) Where immediately before the commencement of this Act the keeping of any children in any premises was lawful under the provisions of the said Part VII, Part XIII or Part I limiting the number of children who may be so kept, a person shall not be guilty of an offence under the said provisions by reason only that by virtue of this Act the said provisions are extended to children in the premises above the age of nine, or that by virtue of section thirty-seven of this Act a child in the premises becomes a foster-child or a child in respect of whom a notice is required to be given under the said Part I, so long as—

- (a) any conditions imposed under the said provisions are complied with, and
- (b) no child is kept in the premises who was not kept there immediately before the commencement of this Act.

(6) Where by virtue of section thirty-seven of this Act the provisions of the said Part VII, Part XIII or Part I become applicable to a child after the commencement of this Act by reason of the death of a parent of the child, the provisions of the three last foregoing sub-paragraphs shall apply as if for references therein to the commencement of this Act there were substituted references to the date at which the said provisions become applicable to the child.

(7) Nothing in section thirty-five or thirty-seven of this Act shall affect any contract of life assurance entered into before the commencement thereof.

11.—(1) Where by virtue of section thirty-five of this Act the provisions of section seven of the Adoption of Children (Regulation) Act, 1939, become applicable to a child at the commencement of this Act, those provisions and the following provisions of this paragraph shall have effect as if possession of the child had been taken at the commencement of this Act.

(2) Where by virtue of the said section thirty-five the provisions of the said section seven become applicable to a child at the commencement of this Act, no notice under the said section seven need be given in connection with the taking possession of the child.

(3) Where by virtue of the said section thirty-five the provisions of the said section seven become applicable to a child within one month after the commencement of this Act, any notice required to be given before possession of the child is taken may be given within one month after the commencement of this Act.

(4) Where by virtue of the said section thirty-five the provisions of the said section seven become applicable to a child at the commencement of this Act, any notice required to be given before a change of residence may, if the change takes place not later than one month after the commencement of this Act, be given at any time before the expiration of the said month.

12. The transitional provisions of the National Assistance Act, 1948, shall take effect subject to the provisions of this Schedule.

THIRD SCHEDULE.

Section 60.

MINOR AND CONSEQUENTIAL AMENDMENTS.

The Children and Young Persons Act, 1933.

23 & 24 Geo. 5. c. 12.

In section seventy, in proviso (a) to subsection (2), for the words from "by" to "committed" there shall be substituted the words "the Poor Law Act, 1930, the Poor Law (Scotland) Act, 1934, the Children and Young Persons (Scotland) Act, 1937, or Part II of the Children Act, 1948, by a local authority or education authority".

In section eighty-two, in paragraph (a) of subsection (4), after the word "induces," there shall be inserted the words "or persistently attempts to induce".

3RD SCH.
—cont.

In section eighty-four, subsections (2) and (5) shall not apply to children and young persons committed to the care of a local authority, and in the proviso to subsection (5) after the words "the child or young person consents" there shall be inserted the words "or, being too young to form or express a proper opinion on the matter, is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian, relative or friend".

In section eighty-five, in subsection (2), for the words "by a local authority under this Act" there shall be substituted the words "under Part II of the Children Act, 1948, by a local authority to whose care he has been committed as a fit person", and in subsection (3), in paragraph (a), after the word "induces," there shall be inserted the words "or persistently attempts to induce," and for the words from "or with whom" to "Act" there shall be substituted the words "as a fit person or with whom he has been boarded out under Part II of the Children Act, 1948, by a local authority to whose care he has been so committed".

In section eighty-six, in subsection (1), for the words "the following persons" there shall be substituted the words "the persons specified in section twenty-four of the Children Act, 1948", and the words from "that is to say" to the end of the subsection shall be omitted.

In section ninety, in subsection (6), for the words from "by" to "committed" there shall be substituted the words "the Poor Law Act, 1930, the Poor Law (Scotland) Act, 1934, the Children and Young Persons (Scotland) Act, 1937, or Part II of the Children Act, 1948, by a local authority or education authority".

In section ninety-five, in paragraph (a) of subsection (1), the words "or otherwise" shall be omitted.

In section ninety-six, in subsection (1), for the words "this Act" there shall be substituted the words "Part II of this Act", and in subsection (7) at the beginning there shall be inserted the words "Subject to the provisions of section thirty-nine of the Children Act, 1948 (which requires certain matters to be referred to the children's committee and restricts the reference of other matters to that committee)".

In section ninety-seven, the words "as respects young persons and", and in proviso (b) the words from "but the London County Council" to the end, shall be omitted.

For section ninety-eight there shall be substituted the following section:—

"98. Without prejudice to the provisions of the last foregoing section, a local education authority may institute proceedings for any offence under Part I or Part II of this Act."

In section one hundred and two, in paragraph (c) of subsection (1), for the words "a child or young person" there shall be substituted the words "himself or any other person".

In section one hundred and seven, in the definition of "place of safety", after the word "means" there shall be inserted the words "any home provided by a local authority under Part II of the Children Act, 1948".

The Public Health Act, 1936.

26 Geo. 5. & 1 Edw. 8. c. 49.

3RD SCH.
—cont.

In section two hundred and seven, in subsection (3), after the words “ or is removed ” there shall be inserted the words “ or removes himself ” and after the words “ the name and address of the person ” there shall be inserted the words “ (if any) ”.

In section two hundred and eleven, in subsection (1), for the word “ nine ” there shall be substituted the word “ eighteen ”.

In section two hundred and nineteen, in subsection (1), for the words from “ under the provisions of any Act ” to the words “ within the meaning of the Children and Young Persons Act, 1933 ” there shall be substituted the words “ on whom a requirement as to residence is imposed by a supervision order or probation order, or who undertakes the nursing or maintenance of a child boarded out by the Minister of Pensions, by a local authority under Part II of the Children Act, 1948, or by a voluntary organisation within the meaning of that Act, or to any voluntary home within the meaning of the Children and Young Persons Act, 1933, or to any school, hospital, convalescent home,”.

In section two hundred and twenty, in the definition of “ place of safety ”, after the word “ means ” there shall be inserted the words “ a home provided by a local authority under Part II of the Children Act, 1948 ”.

The Public Health (London) Act, 1936.

26 Geo. 5. & 1 Edw. 8. c. 50.

Throughout Part XIII references to “ a local authority ” or “ every local authority ” shall be construed as references to “ the local authority ”, and not in accordance with the provisions of Part I of the Tenth Schedule to the National Health Service Act, 1946.

In section two hundred and fifty-seven, in subsection (3), the words “ for the district in which he proposes to reside ” shall be omitted; in subsection (4), after the words “ or is removed ” there shall be inserted the words “ or removes himself ” and after the words “ the name and address of the person ” there shall be inserted the words “ (if any) ”.

In section two hundred and sixty, for the word “ nine ” there shall be substituted the word “ eighteen ”.

In section two hundred and seventy-two, in subsection (3), for paragraph (b) there shall be substituted the following paragraphs—

- “ (b) in pursuance of any arrangement for the boarding out of a child by the Minister of Pensions, by a local authority under Part II of the Children Act, 1948, or by a voluntary organisation within the meaning of that Act;
- (c) with respect to a child on whom a requirement as to residence is imposed by a supervision order or probation order.”

In section three hundred and four, in the definition of “ place of safety ”, after the word “ means ” there shall be inserted the words “ any home provided by a local authority under Part II of the Children Act, 1948 ”.

3RD SCH.
—cont.

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

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

In section one, in subsection (5), after the words " or is removed " there shall be inserted the words " or removes himself "; and after the words " the name and address of the person " there shall be inserted the words " (if any) ".

In section four, for the word " nine " there shall be substituted the word " eighteen ".

In section eleven, in subsection (1), for the words " or to any hospital " there shall be substituted the words " or to any person who undertakes the nursing or maintenance of a child on whom a requirement as to residence is imposed by a probation order, or who is boarded out by the Minister of Pensions, by a local authority under Part II of the Children Act, 1948, or by a voluntary organisation as defined in that Act, or to any hospital ".

In section forty-three, for any reference to an education authority there shall be substituted a reference to a local authority; and in subsection (2), for the words from " and render available " to " likely to assist the court " there shall be substituted the words " render available to the court such information as to home surroundings as appears to them will assist the court and shall apply to the appropriate education authority for a report, which that authority shall have a duty to give, furnishing such information on the school record, health and character of the child or young person, and, in proper cases, on the availability of approved schools as shall appear to the education authority to be likely to assist the court ".

In sections sixty-six and sixty-seven, for any reference to an education authority there shall be substituted a reference to a local authority.

In section seventy-four, in proviso (a) to subsection (2), for the words from " by " to " committed " there shall be substituted the words " the Poor Law Act, 1930, the Children and Young Persons Act, 1933, the Poor Law (Scotland) Act, 1934, or Part II of the Children Act, 1948, by a local authority or education authority ".

In section eighty-six, in paragraph (a) of subsection (4), after the word " induces," there shall be inserted the words " or persistently attempts to induce ".

In section eighty-eight, for any reference to an education authority there shall be substituted a reference to a local authority; subsections (2) and (5) shall not apply to children and young persons committed to the care of a local authority; and in the proviso to subsection (5), after the words " the child or young person consents " there shall be inserted the words " or, being too young to form or express a proper opinion on the matter, is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian, relative or friend ".

In section eighty-nine, in subsection (2), for the words " by an education authority under this Act " there shall be substituted the words " under Part II of the Children Act, 1948, by a local authority to whose care he has been committed as a fit person ", for the words " the education authority " there shall be substituted the words " the

local authority"; and in subsection (3), in paragraph (a), after the word "induces," there shall be inserted the words "or persistently attempts to induce," and for the words from "or with whom" to "Act" there shall be substituted the words "as a fit person or with whom he has been boarded out under Part II of the Children Act, 1948, by a local authority to whose care he has been so committed".

In section ninety, in subsection (1), for the words "the following persons" there shall be substituted the words "the persons specified in section twenty-four of the Children Act, 1948", and the words from "that is to say" to the end of the subsection shall be omitted; in subsection (2), for any reference to an education authority there shall be substituted a reference to a local authority; and in subsection (3), for the words "an education authority" there shall be substituted the words "a local authority", for the words from "the education authority" to "over by the authority" there shall be substituted the words "the local authority or the education authority, as the case may be, within whose area the person liable to make the contribution is for the time being residing, and shall be paid over by such authority".

In section ninety-one, for any reference to an education authority there shall be substituted, except in head (b) of subsection (2), a reference to a local authority; and in subsection (2), in head (a), after the words "committed, or" there shall be inserted the words "of the education authority", and in head (b), after the words "of the" there shall be inserted the words "local authority or the" and after the words "education authority" there shall be inserted the words "as the case may be".

In section ninety-three, in subsection (2), after the words "payable to" there shall be inserted the words "a local authority or" and after the words "education authority" there shall be inserted the words "as the case may be", and for the words "the education authority" there shall be substituted the words "the authority"; in subsection (3), after the words "clerk to" there shall be inserted the words "a local authority or to".

In section ninety-four, in subsection (5), for the words from "by" to "committed" there shall be substituted the words "the Poor Law Act, 1930, the Children and Young Persons Act, 1933, the Poor Law (Scotland) Act, 1934, or Part II of the Children Act, 1948, by a local authority or education authority".

In section one hundred and ten, in subsection (1), in the definition of "place of safety", after the word "means" there shall be inserted the words "any home provided by a local authority under Part II of the Children Act, 1948".

The Adoption of Children (Regulation) Act, 1939.

2 & 3 Geo. 6. c. 27.

In section seven, in paragraph (b) of subsection (8), for the words "under subsection (3) of section eighty-four of the Children and Young Persons Act, 1933," there shall be substituted the words "by a local authority under Part II of the Children Act, 1948".

3RD SCH.
—cont.

In section sixteen, in subsection (2), in the definition of "welfare authority", after the word "purposes" there shall be inserted the words "of the provisions relating to child life protection"; and subsection (3) shall have effect as originally enacted and not as amended by the National Health Service Act, 1946.

The National Health Service Act, 1946.

9 & 10 Geo. 6. c. 81.

In section twenty-two, in subsection (3), for the words "Part VII" there shall be substituted the words "section two hundred and three". and the words from "and the local authority" to the end of the subsection shall be omitted.

The National Assistance Act, 1948

11 & 12 Geo. 6. c. 29.

In the Sixth Schedule, in paragraph 8, in head (a) of sub-paragraph (2), after the word "Act," there shall be inserted the words "or of Part II of the Children Act, 1948."

Section 60.

FOURTH SCHEDULE.

REPEALS.

PART I.

ENACTMENTS REPEALED AS FROM COMMENCEMENT OF ACT.

Session and Chapter.	Enactment repealed.	Extent of Repeal.
15 & 16 Geo. 5. c. 45.	The Guardianship of Infants Act, 1925.	In section seven, subsection (4).
23 & 24 Geo. 5. c. 12.	The Children and Young Persons Act, 1933.	In section seventy, in subsection (2), the words "made on the application of a poor law authority in their capacity as such or," in subsection (3) the words "or poor law" and in subsection (7) the words from the beginning of the subsection to "and"; in section eighty-four, subsection (3); in section eighty-seven, the proviso to subsection (1); in section eighty-eight, subsection (3); in section ninety, in subsection (5), paragraph (a), and the words from "but in the first" to the end of the subsection; in section one hundred and four, in subsection (1), sub-paragraph (ii) of paragraph (a).

Session and Chapter.	Enactment repealed.	Extent of Repeal.
26 Geo. 5 and 1 Edw. 8. c. 49.	The Public Health Act, 1936.	Section two hundred and eighteen.
1 Edw. 8 and 1 Geo. 6. c. 37.	The Children and Young Persons (Scotland) Act, 1937.	In section twenty-three, subsection (5); in section forty-three, in subsection (2), the words " themselves charge any child or young person with any offence, or "; in section seventy-four, in subsection (2), the words " made on the application of a poor law authority in their capacity as such or "; in subsection (3), the words " or poor law "; in subsection (7), the words from the beginning of the subsection to " that authority, and "; in section eighty-eight, subsection (3); in section ninety-one, the proviso to subsection (1); in section ninety-two, subsection (3); in section ninety-four, in subsection (4), paragraph (a), and the words from " but in the first " to the end of the subsection; section one hundred and two; in section one hundred and seven, in subsection (1), sub-paragraph (ii) of paragraph (a).
2 & 3 Geo. 6. c. 27.	The Adoption of Children (Regulation) Act, 1939.	In section fifteen, in paragraph (c), in sub-paragraph (iii) the words " and to section eighty-four thereof " and the words " and to section eighty-eight thereof ".
8 & 9 Geo. 6. c. 41.	The Family Allowances Act, 1945.	In section eleven, in subsection (1), in paragraph (a) the words " or deemed to be made "; in section twenty-six, subsection (9).
9 & 10 Geo. 6. c. 81.	The National Health Service Act, 1946.	In section twenty-two, in subsection (3), the words from " and the local " to the end of the subsection; in Part I of the Tenth Schedule, under the heading <i>The Public Health Act, 1936</i> , the entry relating to section two hundred and eighteen; under the heading <i>The Public Health (London) Act, 1936</i> , the entry relating to Part XIII; in the entry headed <i>The Adoption of Children (Regulation) Act, 1939</i> , the words from " and in section sixteen " to the end of the entry.

4TH SCH.
—cont.

PART II.

ENACTMENTS REPEALED AS FROM 1ST JANUARY, 1949.

Session and Chapter.	Enactment repealed.	Extent of Repeal.
23 & 24 Geo. 5. c. 12.	The Children and Young Persons Act, 1933.	Section ninety-five; in section one hundred and two, in subsection (1), the words from “ (f) in the case ” to the end of the subsection.
1 Edw. 8 and 1 Geo. 6. c. 37.	The Children and Young Persons (Scotland) Act, 1937.	Section ninety-nine.

CHAPTER 44.

Merchant Shipping Act, 1948.

ARRANGEMENT OF SECTIONS.

Crew Accommodation and Food and Catering.

Section.

1. Accommodation for seamen.
2. Application of section one.
3. Inspections of crew accommodation.
4. Amendments consequential on s. 1.

Certification of Able Seamen.

5. Rating of seamen.

Certification of Ships' Cooks.

6. Certificated cooks for foreign-going ships.

Social Security.

7. Expenses of maintenance in case of injury or illness.

Supplemental.

8. Payment of fees into the Exchequer.
 9. Application to British possessions, etc.
 10. Commencement.
 11. Regulations and orders.
 12. Interpretation, construction and citation.
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An Act to amend the provisions of the Merchant Shipping Acts relating to matters affected by certain International Conventions adopted at Seattle in the year nineteen hundred and forty-six.

[13th July 1948.]

WHEREAS at a session of the International Labour Conference held at Seattle in the year nineteen hundred and forty-six certain Conventions were adopted, dealing respectively with crew accommodation on board ship, the certification of able seamen, food and catering for crews on board ship, the certification of ships' cooks, and social security for seafarers :

And whereas it is expedient to make such amendments in the law relating to merchant shipping as will enable effect to be given to those Conventions or certain parts thereof, and otherwise to amend the Merchant Shipping Acts with respect to matters dealt with by those Conventions :

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 :—

Crew Accommodation and Food and Catering.

1.—(1) The Minister may, after consultation with such Accommodation organisation or organisations as appear to him to be representative both of owners of British ships and of seamen employed therein, make regulations with respect to the crew accommodation to be provided in ships of any class specified in the regulations, being ships in respect of which such regulations are authorised to be made by the next following section.

Accommodation for seamen.

(2) Without prejudice to the generality of the foregoing subsection, regulations made thereunder may, in particular—

- (a) prescribe the minimum space per man which must be provided in any ship to which the regulations apply by way of sleeping accommodation for seamen and apprentices, and the maximum number of persons by whom any specified part of such sleeping accommodation may be used ;
- (b) regulate the position in any such ship in which the crew accommodation or any part thereof may be located, and the standards to be observed in the construction, equipment and furnishing of any such accommodation ;
- (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out

for the purpose of the provision or alteration of any such accommodation, and authorise the surveyor to inspect any such works ;

- (d) provide for the maintenance and repair of any such accommodation, and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed ;

and may make different provision in respect of different classes of ships and in respect of crew accommodation provided for different classes of persons.

(3) In this Act the expression " crew accommodation " includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen and apprentices, not being accommodation which is also used by or provided for the use of passengers :

Provided that regulations made under this section may provide that any store rooms comprised in the crew accommodation of a ship shall, to such extent as may be prescribed by the regulations, be disregarded in estimating the space to be deducted from the tonnage of the ship under section seventy-nine of the principal Act in respect of crew accommodation.

(4) If the provisions of any regulations made under this section are contravened in the case of a ship, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

Application of
section one.

2.—(1) Subject to the provisions of this section, regulations made under section one of this Act may apply—

- (a) to any British ship for the time being registered in the United Kingdom, whether so registered before or after the date on which the regulations come into force ; and
- (b) to any ship which, at any time after that date, is being constructed to the order of a person qualified under the principal Act to be the owner of a British ship and has not been registered in the United Kingdom or elsewhere,

not being a fishing boat or a ship being constructed for use as a fishing boat :

Provided that, subject to the provisions of any Order in Council made under section nine of this Act, such regulations shall not apply to any ship under construction which is being constructed at any place in His Majesty's dominions outside the United Kingdom or in any foreign country or territory in which His Majesty has for the time being jurisdiction, or is intended on her first registration to be registered at any such place.

(2) Where any ship to which regulations made under section one of this Act apply was a British ship registered in the United Kingdom immediately before the date on which those regulations came into force, then, unless and until, after that date, the ship is re-registered in the United Kingdom or undergoes substantial structural alterations or repairs (not being repairs carried out in consequence of damage or in an emergency)—

(a) any requirements of the regulations (including any subsequent regulations amending or substituted for those regulations) relating to matters specified in paragraph (a) or paragraph (b) of subsection (2) of section one of this Act (in this section referred to as "the construction requirements") shall be deemed to be complied with in the case of the ship if the corresponding requirements of the law in force immediately before that date are so complied with ; and

(b) any requirements of any such regulations relating to matters specified in paragraph (c) of the said subsection (2) (in this section referred to as "the survey requirements") shall not apply to any works other than works proposed to be carried out for the purpose of any such alterations or repairs as aforesaid.

(3) Where regulations made under section one of this Act become applicable—

(a) to a ship under construction of which the keel was laid before the date on which those regulations came into force ;

(b) to a ship registered as a British ship in the United Kingdom after that date, not being a ship to which such regulations applied while she was under construction,

or where any such ship as is mentioned in the last foregoing subsection is re-registered, altered or repaired as mentioned in that subsection, then, if, upon application made to him by the owner of the ship, the Minister is satisfied, after consultation with the owner of the ship or an organisation which appears to him to be representative of owners of British ships, and with an organisation which appears to him to be representative of seamen employed in British ships, that such steps if any as are reasonable and practicable have been taken for securing compliance with the construction requirements of the regulations in the case of the ship, he shall certify accordingly.

(4) In determining for the purposes of the last foregoing subsection what steps for securing compliance with the construction requirements of any regulations are reasonable and

practicable, the Minister shall have regard to the age of the ship, to the purpose for which she is or is intended to be used and to the nature of any alterations or repairs which are carried out, or to the extent to which the construction of the ship had been completed before the date on which the regulations came into force, as the case may be.

(5) Where any such certificate is issued by the Minister as aforesaid, then, subject to compliance with such conditions, if any, as may be specified in the certificate—

- (a) the construction requirements of the regulations (including any subsequent regulations amending or substituted for those regulations) shall be deemed to be complied with in the case of the ship ; and
- (b) the survey requirements of any such regulations shall not apply to any works other than works proposed to be carried out for the purpose of any such alterations or repairs as are mentioned in subsection (2) of this section :

Provided that on the occurrence of any such event as is mentioned in the said subsection (2), the provisions of this subsection shall cease to have effect in relation to the ship, but without prejudice to the issue of a further certificate under subsection (3) of this section.

**Inspections
of crew
accommoda-
tion.**

3.—(1) Whenever a ship to which regulations made under section one of this Act apply is registered or re-registered in the United Kingdom, whenever a complaint in respect of the crew accommodation in any such ship is duly made in accordance with the regulations, and on such other occasions as may be prescribed by the regulations, a surveyor of ships shall inspect the crew accommodation.

(2) If, upon any such inspection, the surveyor is satisfied that the crew accommodation complies with the regulations, he shall (except where the inspection is made in consequence of a complaint) give to the registrar of British ships a certificate specifying as space deductible under section seventy-nine of the principal Act the whole of the space comprised in that accommodation, except any part thereof required by the regulations to be disregarded in estimating the space so to be deducted.

(3) If, upon any such inspection, it appears to the surveyor that the accommodation does not comply in all respects with the regulations, he may give to the registrar a certificate specifying as space deductible as aforesaid such part of the space comprised in the accommodation as he considers appropriate having regard to the extent to which it complies with the regulations, but if

he does not give such a certificate he shall report to the registrar that no space is deductible as aforesaid :

Provided that the surveyor shall not be required to make such a report as aforesaid—

- (a) if the inspection is made on the occasion of the registration or re-registration of the ship ; or
- (b) if it appears to him that the failure to comply with the regulations is not substantial and will be remedied within a reasonable time.

(4) Where any certificate is given or report made under the foregoing provisions of this section in respect of a ship already registered, any certificate previously given thereunder in respect of that ship shall cease to have effect, and the registered tonnage of the ship shall be altered accordingly.

(5) In respect of any inspection of a ship carried out by a surveyor for the purposes of this section, there shall be paid such fees as may be prescribed by regulations made under section one of this Act.

(6) Regulations made under section one of this Act may require the master of any ship to which the regulations apply, or any officer authorised by him for the purpose, to carry out such inspections of the crew accommodation as may be prescribed by the regulations, and to record in the official log such particulars of any such inspection as may be so prescribed.

4.—(1) In relation to ships to which regulations made under section one of this Act apply, section seventy-nine of the principal Act (which authorises certain deductions in ascertaining the register tonnage of ships) shall have effect as if in sub-paragraph (a) (i) of subsection (1) for the words “ any space occupied by seamen or apprentices and appropriated to their use, which is certified under the regulations scheduled to this Act with regard thereto ” there were substituted the words “ any space provided by way of crew accommodation which is certified under the Merchant Shipping Act, 1948, to be space deductible under this section ”.

Amendments consequential on s. 1.

(2) In relation to a ship of any foreign country, being a ship to which regulations made under section one of this Act would apply if she were a British ship and were registered in the United Kingdom, subsection (1) of section eighty-four of the principal Act (which as amended by section fifty-five of the Merchant Shipping Act, 1906, provides for the ascertainment of the tonnage of certain foreign ships) shall have effect subject to the following modifications, that is to say :—

6 Edw. 7. c. 48.

- (a) for the words “ shall be deemed to have been certified under this Act and to comply with the provisions of this Act which apply to such a space in the case of

British ships" there shall be substituted the words "shall be deemed to have been specified in a certificate issued under the Merchant Shipping Act, 1948, and to comply with regulations made under section one of that Act";

(b) for the words "the standard required under this Act in the case of a British ship" there shall be substituted the words "the standard which would be required under or for the purposes of those regulations if she were a British ship registered in the United Kingdom".

(3) Section two hundred and ten of the principal Act and the Sixth Schedule to that Act, and section sixty-four of the Merchant Shipping Act, 1906, shall not apply to any ship to which regulations made under section one of this Act apply (but without prejudice to the provisions of subsection (2) of section two of this Act); and the proviso to paragraph (a) of subsection (2) of section five hundred and three of the principal Act shall cease to have effect:

Provided that any certificate given in relation to any such ship as aforesaid, under paragraph (3) of the said Sixth Schedule before the date on which the regulations apply thereto shall have effect for the purposes of this Act and of the principal Act as if it had been given under the last foregoing section.

Certification of Able Seamen.

Rating of
seamen.

5.—(1) After such date as may be prescribed by regulations made under the following provisions of this section, a seaman engaged in any British ship registered in the United Kingdom shall not be rated as A.B. unless he is the holder of a certificate of competency granted in pursuance of those regulations.

(2) The Minister may make regulations providing for the grant of certificates of competency as A.B. for the purposes of this section; and such regulations shall in particular direct that no such certificate shall be granted to any person unless—

(a) he has reached such minimum age as may be prescribed by the regulations; and

(b) he has performed such qualifying service at sea as may be so prescribed; and

(c) he has passed such examination as may be so prescribed;

Provided that the regulations may authorise the grant of a certificate thereunder to any person, notwithstanding that he has not complied with the conditions aforesaid, if he shows, in such manner as may be prescribed by the regulations, that he was serving as A.B., or in an equivalent or superior deck rating, on the date on which the regulations came into force, or had so served at any time before that date.

(3) Regulations made under this section may make such consequential provisions as appear to the Minister to be necessary or expedient, including provision—

- (a) for the payment of such fees as may be prescribed by the regulations in respect of any application for the grant or replacement of a certificate thereunder ;
- (b) for applying to certificates granted under the regulations, subject to such adaptations and modifications as may be so prescribed, the provisions of section one hundred and four of the principal Act (which relates to forgery and other offences relating to certificates of competency of ships' officers granted under that Act).

(4) Where provision is made by the law of any part of His Majesty's dominions outside the United Kingdom for the grant of certificates of competency as A.B., and the Minister reports to His Majesty that he is satisfied that the conditions under which such a certificate is granted require standards of competency not lower than those required for the grant of a certificate in pursuance of regulations made under this section, His Majesty may by Order in Council direct that certificates granted in that part of His Majesty's dominions shall have the same effect for the purposes of this section as if they had been granted in pursuance of such regulations as aforesaid ; and any such Order may apply to any such certificate any of the provisions of the regulations relating to certificates granted thereunder.

(5) Any superintendent or other officer before whom, at any time after such date as may be prescribed by regulations made under this section, a seaman is engaged in any British ship registered in the United Kingdom, shall refuse to enter the seaman as A.B. on the agreement with the crew unless the seaman produces a certificate of competency granted in pursuance of the regulations or such other proof that he is the holder of such a certificate as may appear to the superintendent or other officer to be satisfactory.

(6) As from such date as may be prescribed by regulations made under this section, section one hundred and twenty-six of the principal Act and section fifty-eight of the Merchant Shipping Act, 1906, shall cease to have effect in relation to any seamen for the time being engaged in a British ship registered in the United Kingdom.

Certification of Ships' Cooks.

6.—(1) Where provision is made by the law of any part of His Majesty's dominions outside the United Kingdom for the issue of certificates of competency as ship's cook, and the Minister reports to His Majesty that he is satisfied that the conditions under which such certificates are granted require standards of

Certificated
cooks for
foreign-
going ships.

competency not lower than those required for the grant of certificates of competency in cooking for the purposes of section twenty-seven of the Merchant Shipping Act, 1906, His Majesty may by Order in Council direct that the holders of such certificates granted in that part of His Majesty's dominions shall be deemed to be duly certificated within the meaning of the said section twenty-seven.

(2) If the Minister reports to His Majesty that he is satisfied that it is the wish of such organisation or organisations as appear to him to be representative both of owners of British ships and of seamen employed therein that the provisions of the said section twenty-seven should, with such exceptions, adaptations and modifications, if any, as may be specified in such report, apply—

- (a) to such classes of British ships, other than the class mentioned in the said section, as may be specified in the report, or
- (b) to British ships going to sea from such places, other than places mentioned in the said section, as may be so specified,

and that it is expedient that the provisions of the said section should so apply, His Majesty may by Order in Council direct that the said provisions shall, with such exceptions, adaptations and modifications as aforesaid, apply to that class of ships or to ships going to sea from those places :

22 & 23 Geo. 5.
c. 4. Provided that nothing in this subsection shall authorise the said provisions to be applied to ships registered in any Dominion within the meaning of the Statute of Westminster, 1931 (other than Newfoundland) or in India, Pakistan or Ceylon.

(3) His Majesty may by Order in Council direct that the provisions of the said section twenty-seven shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any country or territory to which, under the following provisions of this Act, any of the provisions of this Act can be extended.

Social Security.

Expenses of
maintenance
in case of
injury or
illness.

7. Subject as hereinafter provided, the expenses which, under subsection (1) of section thirty-four of the Merchant Shipping Act, 1906, are to be defrayed by the owner in the case of a master or seaman or apprentice who receives any hurt or injury in the service of a ship or suffers from any illness shall include the expenses of his maintenance during any period during which he is unemployed after he has been cured and before he has been returned to a proper return port and of his conveyance to the port :

Provided that an owner shall not be liable by virtue of this section to pay the expenses of the maintenance of any person

during any period or of his conveyance to a proper return port if he shows that that person had failed to accept suitable employment on board a British ship proceeding within a reasonable time to a proper return port, or had failed to comply with any other reasonable arrangements made for his return to a proper return port.

Supplemental.

8. Any fees received by the Minister under this Act or regulations made thereunder shall be paid into the Exchequer. Payment of fees into the Exchequer.

9.—(1) His Majesty may by Order in Council direct that any of the provisions of this Act (including any enactments for the time being in force amending or substituted for the said provisions) shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to the Isle of Man, any of the Channel Islands, Newfoundland or any colony. Application to British possessions, etc.

(2) The Foreign Jurisdiction Act, 1890, shall have effect as if the provisions of this Act were included among the enactments which, by virtue of section five of that Act, may be extended by Order in Council to foreign countries in which for the time being His Majesty has jurisdiction. 53 & 54 Vict. c. 37.

(3) His Majesty may by Order in Council direct that any provision of this Act shall apply, subject to such exceptions, adaptations and modifications, if any, as may be specified in the Order, to ships registered in any country or territory to which the provisions of this Act can be extended by virtue of subsection (1) or subsection (2) of this section, or under construction in any such country or territory, or to be registered on first registration in any such country or territory, as it applies to ships registered, under construction or to be registered on first registration, as the case may be, in the United Kingdom.

10.—(1) This Act shall come into operation on such date as the Minister may by order appoint, and different dates may be appointed for the purposes of different provisions of this Act. Commence-ment.

(2) The date or dates to be appointed for the purposes of the coming into operation of the provisions of this Act hereinafter mentioned shall be the date or dates on which the relevant Conventions come into force for the United Kingdom, that is to say—

- (a) in respect of sections one to four of this Act, the Conventions dealing with crew accommodation on board ship and with food and catering for crews on board ship ;
- (b) in respect of section five, the Convention dealing with the certification of able seamen ;

- (c) in respect of section six, the Convention dealing with the certification of ships' cooks ; and
- (d) in respect of section seven, the Convention dealing with social security for seafarers :

Provided that if the Minister is satisfied that it is the wish of such organisation or organisations as appear to him to be representative both of owners of British ships and of seamen employed therein, that any such provision of this Act as aforesaid should come into operation on a date earlier than the date aforesaid, and that it is expedient that it should come into operation on that date, he may appoint that date as the date on which that provision is to come into operation.

**Regulations
and orders.**

11.—(1) Any power of the Minister to make regulations or orders under the foregoing provisions of this Act shall be exercisable by statutory instrument.

(2) Any Order in Council made under the foregoing provisions of this Act and any instrument containing regulations made under section one of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Interpretation,
construction
and citation.**

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

“ crew accommodation ” has the meaning assigned to it by section one of this Act ;

“ Minister ” means the Minister of Transport ; •

“ owner ”, in relation to a ship under construction, means the person to whose order she is constructed ;

“ principal Act ” means the Merchant Shipping Act, 1894.

57 & 58 Vict.
c. 60.

(2) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act.

(3) This Act shall be construed as one with the Merchant Shipping Acts, 1894 to 1938, and without prejudice to the generality of this provision, references in those Acts to the Merchant Shipping Acts shall be construed as including references to this Act.

(4) This Act may be cited as the Merchant Shipping Act, 1948, and the Merchant Shipping Acts, 1894 to 1938, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1948.

CHAPTER 45.

Agriculture (Scotland) Act, 1948.

ARRANGEMENT OF SECTIONS.

PART I.

AGRICULTURAL HOLDINGS.

Compensation to tenant for improvements and to landlord for deterioration.

Section.

1. Provisions as to payment of compensation for improvements.
2. Compensation to tenant for improvements.
3. Assessment of compensation where grant received by tenant.
4. Compensation to landlord for deterioration of holding.

Compensation for disturbance and provisions as to notices to quit.

5. Compensation for disturbance.
6. Notice of termination of tenancy.
7. Restrictions on termination by notice of tenancies of holdings.
8. Provisions as to notices to quit where holding agreed to be sold.

Supplementary provisions as to compensation.

9. Extent to which compensation recoverable under agreements.
10. Transitional provisions as to compensation.

Variation and ascertainment of terms of leases.

11. Variation of rent of holdings.
12. Variation of terms of tenancy as to permanent pasture.
13. Respective liabilities of landlord and tenant for provision and maintenance of fixed equipment and for payment of insurance premiums.
14. Provisions for securing written leases and for the revision of certain leases.
15. Supplementary provisions as to s. 13 and s. 14.
16. Leases to continue in force notwithstanding variation of terms, etc.

General.

17. Restriction on letting agricultural land for less than from year to year.
18. Power of tenant to obtain charge on holding in respect of compensation.
19. Power of landlord to enter on holding.
20. Right of landlord to object to heir-at-law of tenant succeeding to holding.
21. Provisions as to payment for implements etc. sold on quitting holding.
22. Provisions as to arbitration.
23. Revision of panel of arbiters.
24. Minor and consequential amendments relating to Part I.
25. Construction, citation and application of Part I.

PART II.

GOOD ESTATE MANAGEMENT AND GOOD HUSBANDRY.

Section.

26. Duties of good estate management and good husbandry.
27. Powers of Secretary of State in cases of bad estate management or bad husbandry.
28. Changes of owner or occupier effected without approval of Secretary of State not to invalidate warning notices.

Directions to secure good estate management and good husbandry.

29. Directions to secure good estate management and good husbandry.
30. Supplementary provisions as to directions.

Dispossession of owners or occupiers on grounds of bad estate management or bad husbandry.

31. Dispossession on grounds of bad estate management.
32. Dispossession on grounds of bad husbandry.
33. Power of Secretary of State to take possession where occupier dispossessed and no other arrangements made.
34. Power of tenant or landlord to apply for dispossession of owner or occupier.

Special directions to secure production.

35. Special directions to secure production.
36. Special directions as to stocking of deer forests and grouse moors.

Supplementary.

37. Service of notices on agents.
38. Interpretation of references in Part II to "owner" and "manager."

PART III.

CONTROL OF INJURIOUS ANIMALS, BIRDS AND WEEDS.

Prevention of damage by injurious animals and birds.

39. Control of injurious animals and birds.
40. Prevention of escape of captive animals.
41. Supplementary provisions as to s. 39 and s. 40.
42. Provision by Secretary of State of equipment and services for pest control.

Prevention of damage by deer.

43. Right of occupier of agricultural holding to kill deer.
44. Powers of Secretary of State to reduce number of deer.
45. Recovery of expenses of killing deer.
46. Returns of numbers etc. of deer.
47. Entry on and inspection of lands.

Amendments of law relating to killing of hares and rabbits.

Section.

- 48. Amendment of 43 & 44 Vict. c. 47, s. 1.
- 49. Provision as to use of poisonous substances.
- 50. Prohibition of night shooting and use of spring traps.

Injurious weeds.

- 51. Destruction of injurious weeds.

Supplementary.

- 52. Saving of right to compensation for damage by game.
- 53. Persons acting under this Part of this Act not required to obtain game licences.
- 54. Interpretation of Part III.

PART IV.

ACQUISITION OF LAND.

*General powers of acquisition and management of land
by the Secretary of State.*

- 55. Power of Secretary of State to acquire land by agreement.
- 56. Acquisition by Secretary of State of land for research experiment and demonstration.
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- 59. Transfer to Secretary of State of land vested in other government departments.
- 60. Power of Secretary of State to appropriate land.
- 61. Powers of management etc. of land acquired by Secretary of State.
- 62. Repeal of 21 & 22 Geo. 5. c. 41, ss. 1 to 4.

Provisions as to compulsory acquisition of land.

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- 64. Power of Secretary of State to provide and equip holdings.

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- 65. Loans to tenants of holdings.
- 66. Recovery of loans in the event of failure of statutory successor.

Agriculture (Scotland) Fund.

- 67. Winding-up of Agriculture (Scotland) Fund.

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Section.

68. Establishment and functions of Agricultural Executive Committees.
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70. Provisions as to appointment of additional members of the Land Court.
71. References to the Land Court.
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73. Establishment and functions of Agricultural Advisory Committees.

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Second Schedule.—Applications for certificates of bad husbandry.

Third Schedule.—Provisions where permanent pasture directed to be ploughed up or other cultivations to be carried out.

Fourth Schedule.—Matters for which provision is to be made in written leases.

Fifth Schedule.—Rules of good estate management.

Sixth Schedule.—Rules of good husbandry.

Seventh Schedule.—Parishes deemed to be congested districts.

Eighth Schedule.

Part I.—Agricultural Executive Committees and Sub-committees.

Part II.—Agricultural Advisory Committees.

Ninth Schedule.—Minor and consequential amendments.

Tenth Schedule.—Enactments repealed.

An Act to amend the enactments relating to agricultural holdings in Scotland ; to make further provision for the improvement and development of agriculture and the use of agricultural land in Scotland ; to authorise the making of grants towards the provision of houses and buildings for landholders and cottars in the Highlands and Islands ; to extend the time for making applications for assistance under the Housing (Agricultural Population) (Scotland) Act, 1938 ; and for purposes connected with the matters aforesaid. [13th July 1948.]

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.

AGRICULTURAL HOLDINGS.

Compensation to tenant for improvements and to landlord for deterioration.

1.—(1) Any agreement made after the commencement of this Part of this Act by an incoming tenant of a holding with his landlord to pay to an outgoing tenant any compensation payable by the landlord under or in pursuance of this Act in respect of improvements or to refund to his landlord any compensation payable as aforesaid which has been paid by the landlord to the outgoing tenant shall be null and void: Provisions as to payment of compensation for improvements.

Provided that an incoming tenant may enter into an agreement in writing with his landlord to pay to an outgoing

PART I.
—cont.13 & 14 Geo. 5.
c. 10.

tenant, or to refund to his landlord up to such maximum amount as may be specified in the agreement, any compensation payable by the landlord under or in pursuance of this Act in respect of the whole or part of any improvement included in Part III of the First Schedule to the Agricultural Holdings (Scotland) Act, 1923 (hereafter in this Act referred to as "the Act of 1923").

(2) Where an incoming tenant has in pursuance of such an agreement in writing as aforesaid paid to an outgoing tenant or refunded to his landlord any compensation in respect of the whole or part of any improvement, he shall be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding and quitted it at the time at which the incoming tenant quits it.

(3) Where, in a case not falling within the foregoing subsections, an incoming tenant of a holding has paid to his landlord any amount in respect of the whole or part of any improvement, he shall, subject to any agreement in writing between the landlord and the tenant, be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as he would have been entitled if he had been tenant of the holding at the time when the improvement was carried out and the improvement or part had been carried out by him.

(4) The foregoing provisions of this section shall have effect in substitution for the provisions of section seven of the Act of 1923.

Compensation
to tenant for
improvements.

2.—(1) The First Schedule to this Act shall be substituted for the First Schedule to the Act of 1923.

(2) The Secretary of State may, after consultation with persons appearing to him to represent the interests of landlords and tenants of agricultural holdings, by order vary the provisions of the First Schedule to the Act of 1923, and an order under this section may make such provision as to the operation of that Act and of this Part of this Act and the said Schedule in relation to tenancies current when the order takes effect as appears to the Secretary of State to be just having regard to the variation of the said Schedule effected by the order:

Provided that nothing in any order made under this subsection shall affect the right of a tenant to claim, in respect of an improvement made or begun before the date on which

such order takes effect, any compensation to which, but for the making of the order, he would have been entitled.

PART I.
—*cont.*

An order under this subsection shall be embodied in a statutory instrument which shall be of no effect unless approved by resolution of each House of Parliament.

(3) The last foregoing subsection shall apply in relation to the Third Schedule to the Act of 1923 as it applies in relation to the First Schedule to the said Act.

3. Where any grant out of moneys provided by Parliament has been or will be made to the tenant of a holding in respect of an improvement specified in the First Schedule to the Act of 1923, the grant shall be taken into account in assessing compensation under that Act for the improvement. Assessment of compensation to landlord for where grant received by tenant.

4.—(1) The landlord of a holding shall be entitled to recover from the tenant of the holding, on the tenant's quitting the holding on the termination of the tenancy, compensation in respect of any dilapidation or deterioration of, or damage to, any part of the holding, or anything in or on the holding, caused by non-fulfilment by the tenant of his responsibilities to farm in accordance with the rules of good husbandry: Compensation to landlord for deterioration of holding.

Provided that compensation shall not be recoverable under this subsection unless the landlord has, not later than three months before the termination of the tenancy, given notice in writing to the tenant of his intention to claim compensation thereunder.

(2) The amount of the compensation payable under the last foregoing subsection shall be the cost, as at the date of the tenant's quitting the holding, of making good the dilapidation, deterioration or damage.

(3) Notwithstanding anything in section nine of this Act, the landlord may, in lieu of claiming compensation under subsection (1) of this section, claim compensation in respect of matters specified therein under and in accordance with a lease in writing, so however that—

- (a) compensation shall be so claimed only on the tenant's quitting the holding on the termination of the tenancy;
- (b) compensation shall not be claimed in respect of any one holding both under such a lease and under the said subsection (1).

(4) Where, on the quitting of a holding by a tenant thereof on the termination of the tenancy, the landlord shows that the value of the holding generally has been reduced, whether

PART I.
—cont.

by reason of any such dilapidation, deterioration or damage as is mentioned in subsection (1) of this section or otherwise by nonfulfilment by the tenant of his responsibilities to farm in accordance with the rules of good husbandry, the landlord shall be entitled to recover from the tenant compensation therefor, in so far as the landlord is not compensated therefor under subsection (1) or in accordance with subsection (3) of this section, of an amount equal to the decrease attributable thereto in the value of the holding:

Provided that compensation shall not be recoverable under this subsection unless the landlord has, not later than three months before the termination of the tenancy, given notice in writing to the tenant of his intention to claim compensation thereunder.

(5) Where a tenant has remained in his holding during two or more tenancies, his landlord shall not be deprived of his right to compensation under this section in respect of any dilapidation, deterioration or damage by reason only that the tenancy during which an act or omission occurred which in whole or in part caused the dilapidation, deterioration or damage was a tenancy other than the tenancy at the termination of which the tenant quits the holding.

(6) Compensation shall not be recoverable—

(a) under subsection (1) or subsection (4) of this section in any case where the lease was entered into after the thirty-first day of July, nineteen hundred and thirty-one, or

(b) under and in accordance with any lease entered into after the commencement of this Part of this Act,

unless during the occupancy of the tenant a record of the condition of the holding has been made under the Act of 1923 or under this Part of this Act, or in respect of any matter arising before the date of the record so made, or, where more than one such record has been made during his occupancy, before the date of the first such record:

Provided that if the landlord and the tenant enter into an agreement in writing in that behalf, a record of the condition of the holding shall, notwithstanding that it was made during the occupancy of a previous tenant, be deemed, for the purposes of this subsection, to have been made during the occupancy of the tenant and on such date as may be specified in the agreement and shall have effect subject to such modifications (if any) as may be so specified.

(7) Section ten of the Act of 1923 (which provides for compensation to the landlord for deterioration of a holding) shall cease to have effect.

*Compensation for disturbance, and provisions as to notices to quit.*PART I.
—cont.Compensation
for
disturbance.

5.—(1) Where the tenancy of a holding terminates by reason of a notice to quit given by the landlord, and in consequence of the notice the tenant quits the holding, then, subject to the provisions of this section, unless—

- (a) on an application in that behalf made to the Secretary of State not more than nine months before the giving of the notice to quit the Secretary of State was satisfied in relation to the holding that the tenant was not fulfilling his responsibilities to farm in accordance with the rules of good husbandry, and certified that he was so satisfied; or
- (b) at the date of the giving of the notice to quit the tenant had failed to comply with a demand in writing served on him by the landlord requiring him within two months from the service of the demand to pay any rent due in respect of the holding, or within a reasonable time to remedy any breach by the tenant, which was capable of being remedied, of any term or condition of his tenancy which was not inconsistent with the fulfilment of his said responsibilities; or
- (c) at the said date the interest of the landlord in the holding had been materially prejudiced by the commission by the tenant of a breach which was not capable of being remedied in reasonable time and at economic cost of any term or condition of the tenancy which was not inconsistent as aforesaid; or
- (d) at the said date the tenant was a person who had become notour bankrupt or executed a trust deed for behoof of his creditors;

and unless the notice to quit states that it is given by reason of one or more of the matters aforesaid, specifying it or them, compensation for the disturbance shall be payable by the landlord to the tenant in accordance with the provisions of this section.

The provisions of the Second Schedule to this Act shall have effect in relation to applications for certificates under paragraph (a) of this subsection.

(2) The amount of the compensation payable under this section shall be the amount of the loss or expense directly attributable to the quitting of the holding which is unavoidably incurred by the tenant upon or in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, and shall include any expenses reasonably

PART I.
—*cont.*

incurred by him in the preparation of his claim for compensation (not being expenses of an arbitration to determine any question arising under this section):

Provided that—

- (a) the compensation payable under this section shall be an amount equal to one year's rent of the holding at the rate at which rent was payable immediately before the termination of the tenancy without proof by the tenant of any such loss or expense as aforesaid;
- (b) the tenant shall not be entitled to claim any greater amount than one year's rent of the holding unless he has given to the landlord not less than one month's notice of the sale of any such goods, implements, fixtures, produce or stock as aforesaid and has afforded him a reasonable opportunity of making a valuation thereof;
- (c) the tenant shall not in any case be entitled to compensation in excess of two years' rent of the holding.

In this subsection the expression "rent" means the rent after deduction of such an amount as the arbiter, failing agreement, may find to be equivalent to the aggregate of the following amounts, that is to say—

- (i) the amount payable by the landlord in respect of the holding for the year in which the tenancy was terminated by way of owners' rates or of any other public rates, taxes or assessments or other public burdens, the charging of which on the landlord would entitle him to relief in respect of tax under Rule 4 of No. V of Schedule A to the Income Tax Act, 1918; and
- (ii) the amount (if any) recovered in respect of that year from the landlord in pursuance of subsection (1) of section forty-seven of the Local Government (Scotland) Act, 1929.

8 & 9 Geo. 5.
c. 40.

19 & 20 Geo. 5.
c. 25.

(3) Where the tenant of a holding has lawfully sub-let the whole or part of the holding, and in consequence of a notice to quit given by his landlord becomes liable to pay compensation under this section to the sub-tenant, the tenant shall not be debarred from recovering compensation under this section by reason only that, owing to not being in occupation of the holding or of part of the holding on the termination of his tenancy, he does not quit the holding or that part.

(4) Where under section thirty of the Act of 1923 the tenant accepts a notice to quit part of his holding as a notice to quit the entire holding, and—

- (a) the part of the holding affected by the notice given by the landlord, together with any part of the holding

affected by any previous notice given by the landlord under that section, is either less than one fourth part of the area of the original holding or of a rental value less than one fourth part of the rental value of the original holding, and

- (b) the holding as proposed to be diminished is reasonably capable of being farmed as a separate holding,

compensation shall not be payable under this section except in respect of the part of the holding to which the notice to quit relates.

(5) Compensation shall not be payable under this section in the case of a permanent pasture which the landlord has been in the habit of letting annually for seasonal grazing or of keeping in his own occupation and which has been let to a tenant for a definite and limited period for cultivation as arable land on the condition that the tenant shall, along with the last or waygoing crop, sow permanent grass seeds.

(6) Compensation payable under this section shall be in addition to any compensation to which the tenant may be entitled apart from this section.

(7) If, while a certificate under paragraph (a) of subsection (1) of this section is in force, the landlord within nine months from the application for the certificate gives notice to quit to the tenant—

- (a) the Secretary of State shall have power, after affording to the tenant an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, to give to the tenant by notice in writing such directions as appear to the Secretary of State necessary for securing that the holding shall not further deteriorate before the determination of the tenancy, and subsections (5) to (9) of section twenty-nine and section thirty-seven of this Act shall apply to directions under this subsection as they apply to directions under the said section twenty-nine; and
- (b) where the tenant contravenes or fails to comply with any directions given under the foregoing paragraph, the Secretary of State may order that the tenancy shall terminate by virtue of the notice to quit at such date earlier than the date specified in that notice as may be specified in the order, being a date not less than three months later than the service on the tenant of notice in writing of the making of the order, and such order shall provide for the reference to arbitration under the Act of 1923 of any question or

PART I.
—*cont.*

difference arising between the landlord and the tenant by reason of the earlier termination of the tenancy.

(8) Sections twelve to fourteen of the Act of 1923 (which relate to compensation for disturbance) shall cease to have effect.

(9) Nothing in this section shall apply to a notice to terminate a tenancy of a holding subsisting under a lease in writing entered into before the fifteenth day of May, nineteen hundred and forty-seven, where—

- (a) immediately before the creation of the tenancy the holding had been for a period of not less than twelve months in the occupation of the landlord; and
- (b) the holding is let upon the express terms that if the landlord desires to resume that occupation before the expiration of a specified period not exceeding seven years the landlord shall be entitled to give notice to quit, without becoming liable to pay to the tenant any compensation for disturbance; and
- (c) the notice to terminate the tenancy is given so as to enable the landlord to resume occupation of the holding within the specified period.

Notice of
termination of
tenancy.

6. For subsection (1) of section twenty-six of the Act of 1923 (which relates to notices to quit) there shall be substituted the following subsection—

“(1) Notwithstanding the termination of the stipulated endurance of any lease, the tenancy shall not come to an end unless, not less than one year nor more than two years before the termination of the lease, written notice has been given by either party to the other of his intention to bring the tenancy to an end.

The provisions of this subsection shall have effect notwithstanding any agreement or any provision in the lease to the contrary.”

Restrictions
on termination
by notice of
tenancies of
holdings.

7.—(1) Where notice to quit a holding or part of a holding is given to the tenant thereof, and not later than one month from the giving of the notice to quit the tenant serves on the landlord notice in writing requiring that this subsection shall apply to the notice to quit, then, subject to the provisions of the next following subsection, the notice to quit shall not have effect unless the Secretary of State consents to the operation thereof.

(2) The last foregoing subsection shall not apply—

- (a) where the Secretary of State has consented under this section to the operation of the notice to quit before the giving thereof, and that fact is stated in the notice;

- (b) where one or more of the conditions specified in paragraphs (a) to (d) of subsection (1) of section five of this Act is fulfilled, and it is stated in the notice to quit that the notice is given by reason thereof;
- (c) where permanent pasture has been let so that subsection (5) of section five of this Act applies to the lease;
- (d) where the notice to quit is given on the ground that the land is required for a use, other than for agriculture, for which permission has been granted on an application made under the enactments relating to town and country planning, or for which (otherwise than by virtue of any provision of those enactments) such permission is not required, and that fact is stated in the notice.

(3) Without prejudice to the discretion of the Secretary of State in a case falling within paragraphs (a) to (e) of this subsection, the Secretary of State shall withhold his consent under this section to the operation of a notice to quit unless he is satisfied—

- (a) that the carrying out of the purpose for which the landlord proposes to terminate the tenancy is desirable in the interests of efficient farming whether as respects good estate management or good husbandry or otherwise; or
- (b) that the carrying out thereof is otherwise desirable for the purposes of agricultural research, education, experiment or demonstration or for the purposes of the enactments relating to smallholdings or such holdings as are mentioned in section sixty-four of this Act or allotments; or
- (c) where the tenancy was created after the passing of this Act, that the landlord proposes to terminate the tenancy for a purpose, specified in the lease, for which the interest of the landlord was held immediately before the creation of the tenancy, and that greater hardship would be caused by the Secretary of State's withholding than by his granting his consent to the operation of the notice; or
- (d) where the tenancy was created before the passing of this Act and the same person was landlord at the passing thereof as at the time when the notice to quit was given or, if the application for the consent of the Secretary of State is made before giving the notice to quit, at the time of the application, that greater hardship would be caused by the Secretary of State's withholding than by his granting his consent to the operation of the notice; or

PART I.
—cont.

(e) that the landlord proposes to terminate the tenancy for the purpose of the land being used for a use, other than for agriculture, not falling within paragraph (d) of the last foregoing subsection.

(4) The Secretary of State shall not give or withhold his consent under this section to the operation of a notice to quit except after affording to the landlord and to the tenant an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State.

(5) Forthwith after the giving or withholding of his consent as aforesaid the Secretary of State shall give notice thereof in writing to the landlord and to the tenant.

(6) If the landlord or the tenant is dissatisfied with the Secretary of State's decision to withhold or to give his consent to the operation of a notice to quit, the landlord or the tenant may, within twenty-one days after notice has been given to him under the last foregoing subsection, appeal to the Land Court against the decision; and where an appeal has been so taken subsections (1) to (3) of this section shall have effect with the substitution (except in so much of paragraph (d) of the said subsection (3) as relates to the application for the consent of the Secretary of State) for references to the Secretary of State of references to the Land Court.

(7) Where the Secretary of State or the Land Court consents under this section to the operation of a notice to quit the Secretary of State or the Court may impose such conditions as appear to the Secretary of State or the Court requisite for securing that the land to which the notice relates will be used for the purpose for which the landlord proposes to terminate the tenancy, and if the Secretary of State is satisfied that within a reasonable time after the notice to quit has expired any condition imposed under this section has not been complied with—

- (a) the Secretary of State may take possession of the land for the purpose of farming it, and
- (b) the provisions of section thirty-three of this Act shall apply as they apply where the Secretary of State takes possession of land under that section, but with the substitution for the reference to a requirement of a reference to a condition.

Where on an application by the landlord in that behalf the Secretary of State is satisfied that by reason of any change of circumstances or otherwise any condition imposed under this subsection ought to be varied or revoked, he shall vary or revoke the condition accordingly.

PART I.
—cont.

(8) The Secretary of State may make regulations—

- (a) for requiring any question arising under subsection (2) of this section to be determined by arbitration under the Act of 1923, for limiting the time within which any such arbitration may be required or any proceedings for the purposes thereof may be taken, and for extending the period within which a notice may be given by the tenant under subsection (1) of this section where any such arbitration is required;
 - (b) as to the time within which and the manner in which applications for the Secretary of State's consent to the operation of notices to quit may be made under this section;
 - (c) for suspending the operation of notices to quit until the issue of the arbiter's award or the decision of the Land Court under this section;
 - (d) for postponing the date at which a tenancy is to be terminated by a notice to quit which has effect in consequence of any such award or decision as aforesaid;
 - (e) for excluding the application of subsection (1) of this section in relation to sub-tenancies in such cases as may be prescribed, and for making such provision as appears to the Secretary of State expedient for the purpose of safeguarding the interests of sub-tenants, including provision enabling the Secretary of State or the Land Court, where the interest of a tenant is terminated by notice to quit, to secure that a sub-tenant will hold from the landlord on the like terms as he held from the tenant.
- (g) Nothing in this section shall apply to any such notice as is specified in subsection (g) of section five of this Act.

8.—(1) The provisions of the two following subsections shall have effect where, whether before or after the commencement of this Part of this Act, notice to quit land being or comprised in a holding has been given to the tenant and at any time after the commencement of this Part of this Act while the notice is current a contract is made for the sale of the landlord's interest in the land or any part thereof.

Provisions as to notices to quit where holding agreed to be sold.

(2) Unless within the period of three months ending with the making of the contract the landlord and the tenant have agreed in writing whether on the making of such a contract the notice shall continue in force or be of no effect,—

- (a) the landlord shall, within the period of fourteen days from the making of the contract, or, where the notice to quit expires within the last mentioned period, before

PART I.
—cont.

the expiration of the notice to quit, give notice in writing to the tenant of the making of the contract, and

- (b) the tenant may before the expiration of the notice to quit notify the landlord in writing that the tenant elects that the notice to quit shall continue in force, so however that the tenant shall not give a notification under this paragraph after the expiration of one month from the receipt by him of a notice under the last foregoing paragraph of the making of the contract.

(3) In default of any such agreement or notification as aforesaid the notice to quit shall be of no effect unless the landlord has failed duly to give notice of the making of the contract and the tenant quits the holding in consequence of the notice to quit.

(4) A notice to quit shall not be invalid by reason only that under any such agreement as aforesaid the operation of the notice is conditional.

(5) The foregoing provisions of this section shall have effect in substitution for the provisions of section twenty-seven of the Act of 1923.

Supplementary provisions as to compensation.

Extent to
which
compensation
recoverable
under
agreements.

9.—(1) Save as expressly provided in the provisions of the Act of 1923, of this Part of this Act and of the Schedules therein referred to, in any case for which apart from this section those provisions provide for compensation a tenant or a landlord shall be entitled to compensation in accordance with those provisions and not otherwise, and shall be so entitled notwithstanding any agreement to the contrary.

(2) Nothing in the said provisions, apart from this section, shall be construed as disentitling a tenant or a landlord to compensation in any case for which the said provisions do not provide for compensation, but a claim for compensation in any such case as aforesaid shall not be enforceable except under an agreement in writing.

(3) Section forty-five of the Act of 1923 (which provides that certain contracts not in accordance with the provisions of that Act shall be void) shall cease to have effect.

Transitional
provisions as
to compensa-
tion.

10.—(1) The provisions relating to compensation of this Part of this Act and the Schedules therein referred to, other than this section, shall not have effect where the tenant of a holding quits the holding in consequence of a notice to quit given (whether by the landlord or the tenant) before the commencement of this Part of this Act, or in consequence of a renunciation of the tenancy in pursuance of an agreement

in writing made before the commencement of this Part of this Act.

PART I.
—cont.

(2) Subject to the last foregoing subsection, the said provisions shall apply whether the tenant entered into occupation of the holding before or after the commencement of this Part of this Act, except that the said provisions shall not apply in relation to any improvements specified in the First Schedule to the Act of 1923 begun before the commencement of this Part of this Act.

(3) References in this section to the said provisions include references to so much of Part VII of this Act as repeals provisions of the Act of 1923 relating to compensation or any enactment amending those provisions of the Act of 1923.

Variation and ascertainment of terms of leases.

11.—(1) Subject to the provisions of this section the landlord or the tenant of a holding may, whether the tenancy was created before or after the commencement of this Part of this Act, by notice in writing served on his tenant or his landlord demand a reference to arbitration of the question what rent should be payable in respect of the holding as from the next ensuing day on which the tenancy could have been terminated by notice to quit given at the date of demanding the reference, and the matter shall be referred accordingly.

Variation of
rent of
holdings.

(2) On any reference under the last foregoing subsection the arbiter—

- (a) shall not take into account any increase in the rental value of the holding which is due to improvements which have been executed thereon in so far as they were executed wholly or partly at the expense of the tenant (whether or not that expense has been or will be reimbursed by a grant out of moneys provided by Parliament) without any equivalent allowance or benefit made or given by the landlord in consideration of their execution, and have not been executed under an obligation imposed on the tenant by the terms of his lease, or to improvements which have been executed thereon by the landlord in so far as the landlord has received or will receive grants out of moneys provided by Parliament in respect of the execution thereof, or fix the rent at a higher amount than would have been properly payable if these improvements had not been so executed, and
- (b) shall not fix the rent at a lower amount by reason of any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant.

Subject as aforesaid, and subject to the provisions of section forty-eight of the Local Government (Scotland) Act, 1929, and

PART I.
—cont.

of paragraph (6) of section nineteen of the Agricultural Marketing Act, 1931, the arbiter shall determine what rent should properly be payable in respect of the holding as from the day mentioned in the last foregoing subsection.

(3) A reference to arbitration under subsection (1) of this section shall not be demanded in such circumstances that any increase or reduction of rent made in consequence thereof would take effect as from a date earlier than the expiration of five years from the latest in time of the following dates, that is to say—

- (a) the commencement of the tenancy, or
- (b) the date as from which there took effect a previous increase or reduction of rent (whether made under this section or otherwise), or
- (c) the date as from which there took effect a previous direction under this section that the rent should continue unchanged:

Provided that there shall be disregarded for the purposes of this subsection—

- (i) any increase of rent under subsection (4) of this section or any such increase as is referred to in paragraph (i) of the proviso to that subsection;
- (ii) any reduction of rent under subsection (7) of section thirty-two of this Act or under section thirty-one of the Act of 1923;
- (iii) any other variation of rent which under the following provisions of this Act is directed to be disregarded for the purposes of this subsection.

(4) Where the landlord of a holding has, whether before or after the commencement of this Part of this Act, carried out on the holding any improvement, whether specified in the First Schedule to the Act of 1923 or not, being an improvement—

- (a) carried out at the request of or in agreement with the tenant, or in pursuance of an undertaking given by the landlord under subsection (3) or paragraph (b) of subsection (6) of section three of the Act of 1923, or
- (b) carried out in compliance with a direction given by the Secretary of State under powers conferred on him by or under any enactment, or
- (c) carried out in such circumstances that apart from this Act any interest or rent in respect thereof would be recoverable by the landlord under section nine of the Agriculture (Miscellaneous Provisions) Act, 1943, or section nine of the Hill Farming Act, 1946,

the rent of the holding shall, if the landlord by notice in writing served on the tenant within six months from the completion of the improvement so requires, be increased as from the

6 & 7 Geo. 6.
c. 16.
9 & 10 Geo. 6.
c. 73.

completion of the improvement, or, where the improvement was completed before the commencement of this Part of this Act, as from the commencement of this Part of this Act, by an amount equal to the increase in the rental value of the holding attributable to the carrying out of the improvement:

Provided that—

- (i) no increase shall be made under this subsection if before the commencement of this Part of this Act the landlord and the tenant have agreed on any increase in rent or other benefit to the landlord in respect of the improvement, or if before the commencement of this Part of this Act any sum has become payable under subsection (3) of section three of the Act of 1923, the said Act of 1943, or the said Act of 1946;
- (ii) where any grant has been made to the landlord in respect of the improvement out of moneys provided by Parliament, the increase in rent provided for by the foregoing provisions of this subsection shall be reduced proportionately.

(5) No interest or rent shall be recoverable by a landlord under the said Act of 1943 or the said Act of 1946 in respect of any improvement specified in paragraph (c) of the last foregoing subsection, whether completed before or after the commencement of this Part of this Act, except where before the commencement of this Part of this Act either the landlord and the tenant have agreed on the payment of interest or rent, or interest or rent has become payable in respect of the improvement.

(6) Any question arising between the landlord and the tenant of the holding under the two last foregoing subsections shall be determined by arbitration.

12.—(1) Where under the lease of a holding, whether entered into before or after the commencement of this Part of this Act, provision is made for the maintenance of specified land, or a specified proportion of the holding, as permanent pasture, and it appears to the Secretary of State, either on the application of the landlord or the tenant or otherwise,—

- (a) that it is expedient in order to secure the full and efficient farming of the holding that the amount of land required to be maintained as permanent pasture should be reduced, and
 - (b) where there has been an application under this section by the landlord or the tenant, that the landlord or the tenant has requested his tenant or his landlord to agree to the appropriate reduction but no agreement has been reached thereon,
- the Secretary of State may, after affording to the landlord and to the tenant an opportunity of making representations

Variation of
terms of
tenancy as to
permanent
pasture.

PART I.
—cont.

to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, direct that the lease shall have effect subject to such modifications of the provisions thereof as to land which is to be maintained as permanent pasture or is to be treated as arable land, and as to cropping, as appear to the Secretary of State expedient as aforesaid and are specified in the direction.

(2) Where by virtue of a direction under this section a lease has effect subject to a reduction of the land which is to be maintained as permanent pasture, the provisions of paragraphs 2 and 3 of the Third Schedule to this Act shall have effect in relation to the direction.

(3) Where the landlord and the tenant of a holding enter into an agreement in writing for any such variation of the terms of the lease as could be made by direction under subsection (1) of this section, or under the said paragraph 2, the agreement may, notwithstanding anything in this Part of this Act, provide for the exclusion of compensation in like manner as under the said paragraph 3.

Respective liabilities of landlord and tenant for provision and maintenance of fixed equipment and for payment of insurance premiums.

13.—(1) Where a lease has been entered into after the commencement of this Part of this Act for the letting of a holding, a record of the condition of the fixed equipment on the holding shall be made forthwith, and on being so made shall be deemed to form part of the lease; and the provisions of section thirty-seven of the Act of 1923 shall apply to the making of such a record and to the cost thereof as they apply to a record made under that section.

(2) There shall be deemed to be incorporated in every lease entered into after the commencement of this Part of this Act for the letting of a holding—

- (a) an undertaking by the landlord that, at the commencement of the tenancy or as soon as is reasonably possible thereafter, he will put the fixed equipment on the holding into a thorough state of repair, and will provide such buildings and other fixed equipment as will enable an occupier reasonably skilled in husbandry to maintain efficient production as respects both the kind of produce specified in the lease, or (failing such specification) in use to be produced on the holding and the quality and quantity thereof, and will during the tenancy effect such replacement or renewal of the buildings or other fixed equipment as may be rendered necessary by natural decay or by fair wear and tear; and
- (b) a provision that the liability of the tenant in relation to the maintenance of fixed equipment shall extend only to a liability to maintain the fixed equipment on the holding in as good a state of repair (natural decay

and fair wear and tear excepted) as it was in immediately after it was put in repair as aforesaid or, in the case of equipment provided, improved, replaced or renewed during the tenancy, as it was in immediately after it was so provided, improved, replaced or renewed.

PART I.
—cont.

(3) Nothing in the last foregoing subsection shall be deemed to prohibit any agreement made after the lease has been entered into between the landlord and the tenant whereby one of the parties undertakes to execute on behalf of the other party, and wholly at his own expense or wholly or partly at the expense of the other party, any work which the other party is required to execute in order to fulfil his obligations under the lease.

(4) Any provision in a lease entered into after the commencement of this Part of this Act requiring the tenant to pay the whole or any part of the premium due under a fire insurance policy over any fixed equipment on the holding shall be null and void.

(5) Any question arising as to the liability of a landlord or of a tenant under this section shall be determined by arbitration.

14.—(1) Where in respect of the tenancy of a holding—

(a) there is not in force a lease in writing embodying the terms of the tenancy, or

(b) there is in force such a lease, being either a lease entered into after the commencement of this Part of this Act or a lease entered into before that date, the stipulated period of which has expired and which is being continued in force by tacit relocation, but it contains no provision for one or more of the matters specified in the Fourth Schedule to this Act or contains a provision inconsistent therewith or with the last foregoing section,

Provisions for
securing
written leases
and for the
revision of
certain leases.

the landlord or the tenant may give notice in writing to his tenant or his landlord requesting him to enter into such a lease containing provision for all of the said matters or a provision not inconsistent with the said Schedule or the said section, as the case may be; and if within the period of six months after the giving of such notice no such lease has been concluded, the terms of the tenancy shall be referred to arbitration.

(2) On any such reference the arbiter shall by his award specify the terms of the existing tenancy, and, in so far as those terms make no provision for all the matters specified in the Fourth Schedule to this Act or make provision inconsistent therewith or with the last foregoing section, make such

PART I.
—cont.

provision for those matters as appears to the arbiter to be reasonable.

(3) On any such reference the arbiter may include in his award any further provisions not inconsistent with the provisions of this Act relating to the tenancy which may be agreed between the landlord and the tenant.

Supplementary
provisions as
to s. 13 and
s. 14.

15.—(1) Where by virtue of section fourteen of this Act the liability for the maintenance or repair of any item of fixed equipment is transferred from the tenant to the landlord, the landlord may within the prescribed period beginning with the date on which the transfer takes effect require that there shall be determined by arbitration, and paid by the tenant, the amount of any compensation which would have been payable under section four of this Act or in accordance with subsection (3) of that section, in respect of any previous failure by the tenant to discharge the said liability, if the tenant had quitted the holding on the termination of his tenancy at the date on which the transfer takes effect.

(2) For the purposes of so much of subsection (3) of section four of this Act as prevents a landlord claiming compensation in respect of the same holding both under a lease and under subsection (1) of the said section four, any claim under the last foregoing subsection shall be disregarded.

(3) Where by virtue of section fourteen of this Act the liability for the maintenance or repair of any item of fixed equipment is transferred from the landlord to the tenant, any claim by the tenant in respect of any previous failure by the landlord to discharge the said liability shall, if the tenant within the prescribed period beginning with the date on which the transfer takes effect so requires, be determined by arbitration and any amount directed by the award to be paid by the landlord shall be paid by him to the tenant.

(4) Where it appears to the arbiter—

(a) on any reference under subsection (5) of section thirteen of this Act that by reason of any provision included in his award, or

(b) on any reference under section fourteen of this Act that by reason of any provision which he is required by that section to include in his award,

it is equitable that the rent of the holding should be varied, he may vary the rent accordingly, and for the purposes of subsection (3) of section eleven of this Act any variation of rent under this subsection shall be disregarded.

(5) The award of an arbiter under section thirteen or fourteen of this Act shall have effect as if the terms and provisions specified and made therein were contained in an agreement in writing entered into by the landlord and the tenant and having

effect as from the making of the award or, if the award so provides, from such later date as may be specified therein.

PART I.
—cont.

16. The lease of a holding shall not be deemed to have been brought to an end, and accordingly neither the landlord nor the tenant of the holding shall be entitled to bring proceedings to terminate the lease or, except with the consent of the other party, to treat it as at an end, by reason only that any new term has been added to the lease or that any of the terms of the lease (including the rent payable thereunder) have been varied or revised in pursuance of any provision of this Part of this Act in that behalf.

Leases to continue in force notwithstanding variation of terms, etc.

General.

17.—(1) Subject to the provisions of this section, where under a lease entered into after the commencement of this Part of this Act any land is let to a person for use as agricultural land for a shorter period than from year to year, and the circumstances are such that if he were a tenant from year to year he would in respect of that land be the tenant of a holding as defined in the Act of 1923, then, unless the letting was approved by the Secretary of State before the lease was entered into, the lease shall take effect, with the necessary modifications, as if it were a lease of the land from year to year:

Restriction on letting agricultural land for less than from year to year.

Provided that this subsection shall not have effect in relation to a lease of land entered into (whether or not the lease expressly so provides) in contemplation of the use of the land only for grazing or mowing during some specified period of the year, or to a lease of land granted by a person whose interest in the land is that of a tenant under a lease which is for a shorter period than from year to year, and which has not by virtue of this section taken effect as a lease from year to year.

(2) Any question arising as to the operation of the last foregoing subsection in relation to any lease shall be determined by arbitration.

18.—(1) Where after the commencement of this Part of this Act any sum has become payable to the tenant of a holding in respect of compensation by the landlord and the landlord has failed to discharge his liability therefor within the period of one month from the date on which the sum became payable, the Secretary of State may, on the application of the tenant and after giving not less than fourteen days' notice of his intention so to do to the landlord, create, where the landlord is the absolute owner of the holding, a charge on the

Power of tenant to obtain charge on holding in respect of compensation.

PART I.

—cont.

20 & 21 Vict.
c. 26.

holding, or where the landlord is the lessee of the holding under a lease recorded under the Registration of Leases (Scotland) Act, 1857, a charge on the lease, for the payment of the sum due.

9 & 10 Geo. 6.
c. 42

(2) For the purpose of creating a charge under this section for the payment of any sum due, the Secretary of State may make in favour of the tenant a charging order charging and burdening the holding or the lease, as the case may be, with an annuity to repay the sum due together with the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines; and the provisions of subsection (2) and subsections (4) to (10) of section fifty-five of the Water (Scotland) Act, 1946, shall with the following and any other necessary modifications apply to any such charging order—

- (a) for any reference to the local authority there shall be substituted a reference to the Secretary of State;
- (b) for any reference to the period of thirty years there shall be substituted a reference to such period (not exceeding thirty years) as the Secretary of State may determine;
- (c) for references to Part III of the said Act of 1946 there shall be substituted references to the Agricultural Holdings (Scotland) Acts, 1923 to 1948.

(3) The creation of a charge on a holding or the lease of a holding under this section shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding is held.

Power of
landlord to
enter on
holding.

19. Without prejudice to the provisions of section thirty-two of the Act of 1923 (which confers on a landlord power to enter to view the state of a holding), the landlord of a holding or any person authorised by him may at all reasonable times enter on the holding for the purpose of fulfilling the landlord's responsibilities to manage the holding in accordance with the rules of good estate management, or for the purpose of providing, improving, replacing or renewing fixed equipment on the holding otherwise than in fulfilment of his said responsibilities.

Right of
landlord to
object to
heir-at-law of
tenant
succeeding to
holding.

20.—(1) Within three months after the right to the lease of a holding devolves upon the heir-at-law of the tenant the landlord, if he objects to receive the heir-at-law as tenant under the lease, may make application to the Land Court for an order terminating the interest of the heir-at-law in the holding.

(2) If on the hearing of such application any reasonable ground of objection is established to the satisfaction of the Land Court, they shall make an order terminating the interest of the heir-at-law in, and requiring him to give up his occupation of, the holding.

(3) The termination of the interest of the heir-at-law under this section shall be treated, for the purposes of the provisions relating to compensation of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, as the termination of his tenancy of the holding; but nothing in this section shall be construed as entitling him to any compensation for disturbance.

(4) The Land Court may, on cause shown, direct that while proceedings are pending under this section the heir-at-law shall not have possession of the holding.

21.—(1) Where a tenant has entered into an agreement, or it is a term of the lease of the holding, that the tenant will on quitting the holding sell to the landlord or to the incoming tenant any implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, it shall be deemed, notwithstanding anything in the agreement or in the lease of the holding to the contrary, to be a condition of the agreement or of the lease, as the case may be, that the property in the goods shall not pass to the buyer until the price is paid and that payment of the price shall be made within one month after the tenant has quitted the holding or, if the price of the goods is to be ascertained by a valuation, within one month after the delivery of the award in the valuation.

Provisions as to payment for implements etc. sold on quitting holding.

(2) Where payment of the price is not made within one month as aforesaid the outgoing tenant shall be entitled to sell or remove the goods and to receive from the landlord or the incoming tenant, as the case may be, by whom the price was payable compensation of an amount equal to any loss or expense unavoidably incurred by the outgoing tenant upon or in connection with such sale or removal together with any expenses reasonably incurred by him in the preparation of his claim for compensation.

(3) Any question arising as to the amount of compensation payable under the last foregoing subsection shall be determined by arbitration.

22.—(1) Without prejudice to any other provision of this Act or of the Act of 1923, any claim of whatever nature by the tenant or the landlord of a holding against his landlord or his tenant, being a claim which arises—

Provisions as to arbitration.

(a) under the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or this Act or any custom or agreement, and

(b) on or out of the termination of the tenancy of the holding or part thereof after the commencement of this Part of this Act,

shall, subject to the provisions of this section, be determined by arbitration.

PART I.
—*cont.*

(2) Without prejudice to any other provision of this Act or of the Act of 1923, no such claim as aforesaid shall be enforceable unless before the expiration of two months from the termination of the tenancy the claimant has served notice in writing on his landlord or his tenant, as the case may be, of his intention to make the claim.

A notice under this subsection shall specify the nature of the claim, and it shall be a sufficient specification thereof if the notice refers to the statutory provision, custom, or term of an agreement under which the claim is made.

(3) The landlord and the tenant may within the period of four months from the termination of the tenancy by agreement in writing settle any such claim as aforesaid, and the Secretary of State may upon the application of the landlord or the tenant made within that period extend the said period by two months and, on a second such application made during those two months, by a further two months.

(4) Where before the expiration of the said period and any extension thereof under the last foregoing subsection any such claim as aforesaid has not been settled, the claim shall cease to be enforceable unless before the expiration of one month from the end of the said period and any such extension, or within such longer time as the Secretary of State may in special circumstances allow, an arbiter has been appointed by agreement between the landlord and the tenant under the provisions in that behalf of the Act of 1923, or an application for the nomination of an arbiter under those provisions has been made by the landlord or the tenant.

(5) Where a tenant lawfully remains in occupation of part of a holding after the termination of a tenancy, references in subsections (2) and (3) of this section to the termination thereof shall be construed as references to the termination of the occupation.

(6) Nothing in section forty-six of the Act of 1923 (which contains a general saving for the remedies of a landlord or tenant) shall be construed as limiting the generality of the provisions of subsection (1) of this section.

(7) Subsection (1) of section six and subsection (2) of section fifteen of the Act of 1923 (which relate to the reference of matters to arbitration) shall cease to have effect; and in subsection (1) of the said section fifteen for the words from the beginning to "any other question or difference" there shall be substituted the words "Save as otherwise expressly provided in this Act, any question or difference".

23.—(1) Section seventeen of the Act of 1923 (which provides for the constitution of a panel of arbiters) shall have effect as if at the end of subsection (1) there were added the following words—

Revision of
panel of
arbiters.

“ The panel of arbiters constituted under this subsection shall be subject to revision by the Lord President of the Court of Session, after such consultation as aforesaid, as soon as may be after the passing of the Agriculture (Scotland) Act, 1948, and at such intervals thereafter, not exceeding five years, as the Lord President and the Secretary of State may from time to time agree.”

PART I.
—cont.

(2) This section shall come into operation on the passing of this Act.

24. The enactments specified in the Ninth Schedule to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments and amendments consequential on the provisions of this Part of this Act.

Minor and consequential amendments relating to Part I.

25.—(1) The provisions of this Part of this Act and the Schedules therein referred to shall be construed as one with the Agricultural Holdings (Scotland) Acts, 1923 and 1931; and those Acts and those provisions may be cited together as the Agricultural Holdings (Scotland) Acts, 1923 to 1948.

Construction, citation and application of Part I.

(2) Without prejudice to section forty of the Act of 1923 (which relates to land belonging to His Majesty in right of the Crown) it is hereby declared that the provisions of the Agricultural Holdings (Scotland) Acts, 1923 and 1931, and this Part of this Act and the Schedules therein referred to apply to land notwithstanding that the interest of the landlord or the tenant thereof belongs to a government department or is held on behalf of His Majesty for the purposes of any government department; but in the application thereof to any land belonging, or an interest in which is held, as aforesaid the said provisions shall have effect subject to such modifications as may be prescribed.

PART II.

GOOD ESTATE MANAGEMENT AND GOOD HUSBANDRY.

26.—(1) The following provisions of this Part of this Act shall have effect for the purpose of securing that owners of agricultural land fulfil their responsibilities to manage the land in accordance with the rules of good estate management, and that occupiers of agricultural land fulfil their responsibilities to farm the land in accordance with the rules of good husbandry.

Duties of good estate management and good husbandry.

(2) The provisions of the Fifth Schedule and of the Sixth Schedule to this Act shall have effect respectively for the purpose of determining for the purposes of this Act whether the owner of agricultural land is fulfilling his responsibilities to manage it in accordance with the rules of good estate management, and whether the occupier of an agricultural

PART II.
—cont.

Powers of
Secretary of
State in cases
of bad estate
management
or bad
husbandry.

unit is fulfilling his responsibilities to farm it in accordance with the rules of good husbandry.

27.—(1) Where the Secretary of State is satisfied that the owner of agricultural land is not fulfilling his responsibilities to manage the land in accordance with the rules of good estate management, or that the occupier of an agricultural unit is not fulfilling his responsibilities to farm the unit in accordance with the rules of good husbandry, the Secretary of State may, after affording to the owner or the occupier, as the case may be, an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, serve on such owner or occupier a notice (hereafter in this Part of this Act referred to as a "warning notice") to that effect, and so long as such notice continues in force—

- (a) any person authorised by the Secretary of State in that behalf may at all reasonable times enter upon the land to which the notice relates for the purpose of inspecting the way in which it is being managed or farmed, as the case may be;
- (b) the Secretary of State shall have the powers of direction and dispossession conferred by the following provisions of this Part of this Act.

For the avoidance of doubt it is hereby declared that the fact that a person is both the occupier of the unit and also the owner of the unit or part thereof does not prevent the serving of notices under this subsection both in relation to farming and in relation to management.

(2) A warning notice served under the last foregoing subsection shall specify the general grounds on which the Secretary of State is satisfied as mentioned in subsection (1) of this section.

(3) While a warning notice is in force the Secretary of State shall within twelve months from the date on which the warning notice becomes effective and thereafter at intervals of not more than twelve months while the warning notice is in force review the management (if the notice relates to management) or the farming (if the notice relates to farming) of the land or agricultural unit to which the notice relates; and if he is satisfied that by reason of the standard of management or farming, as the case may be, attained by the person to whom the notice relates it is no longer necessary that the notice should continue in force, the Secretary of State shall withdraw the notice, and shall give notice in writing to the person to whom the notice relates that he has done so, or if he is not so satisfied the Secretary of State shall inform the person to whom the warning notice relates that the warning notice is to continue in force:

Provided that the withdrawal of the notice shall not affect any direction given thereunder in so far as it is in force immediately before the withdrawal of the notice.

(4) Where the owner of land is not also the occupier thereof—

- (a) an opportunity of making representations to the Secretary of State shall be afforded under subsection (1) of this section both to the owner and to the occupier, and not only to the person on whom the Secretary of State is considering serving the notice;
- (b) forthwith after serving a warning notice on, or giving notice of the withdrawal or of the continuance of a warning notice to the owner or the occupier, as the case may be, the Secretary of State shall serve a copy of the notice on, or give notice in writing of the withdrawal or of the continuance to the other party.

(5) If while a warning notice is in force in relation to the farming of an agricultural unit additional land becomes comprised in the unit, the notice shall by virtue of this subsection extend to the farming of that additional land; and references in this Act to the coming into operation of the notice shall be construed as references to the date at which the notice originally came into operation as well in relation to the additional land as in relation to any other land to which the notice relates:

Provided that nothing in this subsection shall be construed as imposing on any person any liability with respect to the additional land at a date before it became part of the said agricultural unit.

28. Where a warning notice is in force, any transfer of any interest in the land to which the notice relates, otherwise than by a testamentary disposition or by operation of law, whereby some other person becomes the owner or the occupier of that land shall not, unless approved by the Secretary of State either before or after the transfer is completed, affect the continued operation of the notice, and accordingly in default of such approval the notice shall continue in force so far as it relates to that land (but subject to the provisions of subsection (3) of the last foregoing section) as if it had been served on the new owner or occupier, as the case may be, as well as on the former owner or occupier.

Changes of owner or occupier effected without approval of Secretary of State not to invalidate warning notices.

Directions to secure good estate management and good husbandry.

29.—(1) Where a warning notice is in force, the Secretary of State, after affording to the person to whom the notice relates an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, may by notice in

Directions to secure good estate management and good husbandry.

PART II.
—cont.

writing served on the person to whom the notice relates give to that person such directions as the Secretary of State is satisfied are required—

- (a) where the notice relates to the management of land, to secure that the said person fulfils his responsibilities to manage the land in accordance with the rules of good estate management;
 - (b) where the notice relates to the farming of an agricultural unit, to secure that the said person fulfils his responsibilities to farm the unit in accordance with the rules of good husbandry.
- (2) Without prejudice to the generality of the provisions of the last foregoing subsection, in so far as it appears to the Secretary of State requisite for the purposes of that subsection—

- (a) a direction under paragraph (a) thereof may impose requirements, restrictions or prohibitions as to the carrying out of work and may require that the management to which the direction relates shall be entrusted to a person appointed by the owner to whom the notice relates and approved by the Secretary of State;
- (b) a direction under paragraph (b) thereof may impose requirements, restrictions or prohibitions as to the carrying out of work and as to the purpose for which and the manner in which land is to be used for agricultural production:

Provided that a direction under the said paragraph (b) shall not be given to the tenant of a holding (as defined in the Act of 1923) to carry out on the holding any improvement falling within Part I of the First Schedule to that Act unless either the landlord has consented to the carrying out of the improvement or, by virtue of the provisions of the Act of 1923 and this Act relating to market gardens, compensation for the carrying out of the improvement does not depend on the landlord's consent thereto.

(3) Any direction requiring only the doing of one or more of the following things, that is to say, the provision, improvement, replacement, renewal, maintenance or repair of fixed equipment which could be given under subsection (1) of this section while a warning notice is in force may be given notwithstanding that no such notice is in force.

(4) Any direction under this section requiring the provision or improvement of fixed equipment on a holding (as defined in the Act of 1923) or such replacement or renewal of fixed equipment thereon as has been rendered necessary by natural decay or fair wear and tear shall, notwithstanding the terms of any lease to which he may be a party, be given to the owner of the land.

(5) If any person to whom a direction is given under this section contravenes or fails to comply with the direction, he shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(6) Without prejudice to the bringing of proceedings under the last foregoing subsection, where a direction under this section to carry out any work is not complied with and the Secretary of State is satisfied that an adequate opportunity has been afforded to the person to whom the direction has been given to carry out the direction, any person authorised by the Secretary of State in that behalf may enter upon the land to which the direction relates and any other land managed or, as the case may be, farmed in conjunction therewith, and carry out the work required by the direction, and the reasonable cost of carrying out work in the exercise of powers conferred by this subsection shall be recoverable by the Secretary of State from the person to whom the direction was given.

(7) Any question arising under the last foregoing subsection as to what is the reasonable cost of any work shall be determined by an arbiter appointed in default of agreement in accordance with the provisions of the Act of 1923.

(8) Any person who obstructs a person acting in the exercise of powers conferred by subsection (6) of this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

(9) Where a direction under this section provides for the doing of anything within a specified time and (whether before or after the expiration of the said time) the Secretary of State is satisfied that it is reasonable that the said time should be extended, he may extend it accordingly.

30.—(1) The Secretary of State shall not give to the owner of land consisting of or comprised in any agricultural unit a direction under the last foregoing section to provide fixed equipment on that land until, after affording to the owner an opportunity of making representations to the Secretary of State, as required by subsection (1) thereof, the Secretary of State has given to the owner notice in writing of the proposal to give the direction, specifying the nature of the direction which the Secretary of State proposes to give.

Supplemen-
tary provisions
as to
directions.

The references in this and in the next succeeding subsection to the provision of fixed equipment include references to the improvement, replacement or renewal thereof, the provision thereof by the conversion of existing fixed equipment and the improvement thereof by the enlargement of buildings.

PART II
—cont.

(2) An owner to whom notice of a proposal is given under the last foregoing subsection may require that the proposal shall be referred to the Land Court, and the provisions of Part VI of this Act shall apply accordingly, either in any case in which the owner proves to the satisfaction of the Court that—

- (a) the estimated reasonable cost of the work involved in the proposal, and
- (b) the cost borne by the owner of any other work for providing fixed equipment on the agricultural unit carried out within the two years immediately preceding the service of the notice, being work requisite for compliance with the owner's responsibilities to manage in accordance with the rules of good estate management,

together exceed the annual value of the land owned by him and comprised in the agricultural unit, or in any case in which either an authority or person has, at the time when the notice is given, power without further authorisation to acquire compulsorily the land to which the notice relates, or at that time that land is designated by a development plan under the enactments relating to town and country planning as subject to compulsory acquisition, or is designated by an order under section one of the New Towns Act, 1946.

9 & 10 Geo. 6.
c. 68.

For the purposes of this subsection, the annual value of land shall be taken to be the gross annual value thereof as entered in the valuation roll in force at the time when the notice under the last foregoing subsection was given, or, if the land is not separately entered in the valuation roll, such proportion of the gross annual value as so entered of the lands and heritages of which it forms part as the Land Court may determine to be appropriate.

(3) Where a direction is proposed to be given under the last foregoing section to an owner who is not the occupier of the land in question or to an occupier who is not the owner thereof, and the proposed direction would require the provision, improvement, replacement, renewal, maintenance or repair of fixed equipment, or the ploughing-up of permanent pasture, an opportunity of making representations to the Secretary of State shall be afforded under subsection (1) of the last foregoing section both to the owner and to the occupier, and not only to the person to whom it is proposed to give the direction.

(4) The provisions of the Third Schedule to this Act shall have effect where a direction is given under the last foregoing section requiring the ploughing-up of permanent pasture or the carrying out of other acts of cultivation.

(5) Where a direction has been given under the last foregoing section to an owner requiring him to carry out any work on land of which he is not also the occupier, he or any person authorised by him may at all reasonable times enter on the land and carry out the work specified in the direction.

PART II.
—cont.

Dispossession of owners or occupiers on grounds of bad estate management or bad husbandry.

31.—(1) Where a warning notice is in force in relation to the management of land, and the Secretary of State is satisfied that the management thereof does not while the notice is in force show satisfactory improvement, and certifies accordingly, the Secretary of State shall, subject to the provisions of this section, have power to purchase compulsorily in accordance with the provisions of this Act in that behalf the land to which the notice relates or any part of that land.

Dispossession
on grounds of
bad estate
management.

(2) Where the Secretary of State proposes to purchase any land under the last foregoing subsection and is satisfied that it is necessary for the purpose of securing the proper management thereof that he should acquire any other adjacent or contiguous land which is being managed by the same person in conjunction with the first-mentioned land, and certifies accordingly, the Secretary of State shall, subject to the provisions of this section, have power to purchase that other land compulsorily in accordance with the provisions aforesaid.

(3) Where any person having an interest in land, by notice in writing served on the Secretary of State within six months of the giving by the Secretary of State of a certificate under the foregoing provisions of this section relating to any other land, represents to the Secretary of State that the first-mentioned land was at the time when the certificate was given being managed in conjunction with that other land and that it is not reasonably practicable to manage it except in conjunction therewith, and requires that the Secretary of State shall purchase the said interest, then unless the Secretary of State is satisfied that the representation is not justified and certifies accordingly before the expiration of the prescribed period, the Secretary of State shall be deemed on the date on which the said period expires to have been authorised to purchase the interest compulsorily in accordance with the provisions of this Act in that behalf and to have served a notice to treat in respect of the interest on that date.

The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 9 & 10 Geo. 5. 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this subsection. c. 57.

PART II.
—cont.

(4) The Secretary of State shall not give any certificate under subsection (1), (2) or (3) of this section until, after affording to any such person as is specified in subsection (6) of this section an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, the Secretary of State has given to any such person as is so specified notice in writing of the proposal to give the certificate together with such particulars as appear to the Secretary of State requisite for informing him of the general grounds on which the Secretary of State is satisfied as mentioned in subsection (1) of this section.

(5) Any person to whom notice of a proposal is given under the last foregoing subsection may require that the proposal shall be referred to the Land Court, and the provisions in that behalf of Part VI of this Act shall apply accordingly.

(6) The persons referred to in subsection (4) of this section are—

- (a) in the case of a proposed certificate under subsection (1) or (2) of this section, every person on whom under paragraph 3 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, a notice would be required to be served of a proposed compulsory purchase order under that Act authorising the compulsory purchase of the land to which the proposed certificate is to relate;
- (b) in the case of a proposed certificate under subsection (3) of this section, the person by whom the representation in question was made.

(7) No certificate under subsection (1) or (2) of this section shall be given until not less than twelve months has expired from the coming into operation of the warning notice in question, except where the person who for the time being is the owner to whom the notice relates has failed to comply with any direction under the foregoing provisions of this Part of this Act given to him as the owner—

- (a) in the case of a proposed certificate under subsection (1) of this section, of the land to which the proposed certificate is to relate,
- (b) in the case of a proposed certificate under subsection (2) thereof, of the land proposed to be acquired under subsection (1) of this section;

and no person on whom a notice to treat is served under powers conferred by either of the said subsections (1) and (2) shall be required to convey his interest to the Secretary of State, or, if he is in occupation of the land in question, to give

up the occupation thereof, before the expiration of three months from the service of the notice to treat.

PART II.
—cont.

32.—(1) Where a warning notice is in force in relation to the farming of an agricultural unit, and the Secretary of State is satisfied that the farming thereof does not while the notice is in force show satisfactory improvement, then subject to the provisions of this section—

Dispossession
on grounds of
bad
husbandry.

- (a) where in the case of any land comprised in the unit the occupier is not the owner thereof, the Secretary of State shall have power by order to terminate the occupier's interest in, and to require him to give up his occupation of, that land, or any part thereof specified in the order, as from such date not earlier than three months after the making of the order as may be specified therein, and to require that the owner shall as from the said date either farm it himself, if he so elects and the Secretary of State approves, or let it to a tenant approved by the Secretary of State;
- (b) where in the case of any land comprised in the unit the occupier is the owner thereof, the Secretary of State shall have power by order to direct that as from such date as aforesaid the occupier shall give up his occupation of that land, or any part thereof specified in the order, and let it to a tenant approved by the Secretary of State:

Provided that in any case where under this subsection the approval of the Secretary of State is withheld the owner may require that the matter shall be referred to the Land Court and the provisions in that behalf of Part VI of this Act shall apply accordingly.

(2) The Secretary of State shall not make an order under the last foregoing subsection until, after affording to the occupier and, in the case of a proposal to make an order under paragraph (a) thereof, to the owner of the land to which the proposed order is to relate an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, the Secretary of State has given to the occupier, and in such a case as aforesaid to the said owner, notice in writing of the proposal to make the order, together with such particulars as appear to the Secretary of State requisite for informing the recipient of the notice of the general grounds on which the Secretary of State is satisfied as mentioned in subsection (1) of this section.

(3) The Secretary of State, before making an order under subsection (1) of this section in the case of any land which is situated in a crofting parish and is occupied by a landholder

PART II.
—*cont.*

or a statutory small tenant, shall take into consideration the general circumstances of the occupier, including his employment, if any, in one or more of the occupations commonly followed as subsidiary or auxiliary to the cultivation of a holding, and the need of the occupier for the land as a place of residence.

In this subsection the expressions "crofting parish," "landholder," "statutory small tenant" and "holding" have the like meanings as in the Small Landholders (Scotland) Acts, 1886 to 1931.

(4) An occupier or owner to whom notice of a proposal is given under subsection (2) of this section may require that the proposal shall be referred to the Land Court, and the provisions in that behalf of Part VI of this Act shall apply accordingly.

(5) No order under subsection (1) of this section shall be made until not less than twelve months has expired from the coming into operation of the warning notice in question, except where the person who for the time being is the occupier to whom the notice relates has failed to comply with any direction under the foregoing provisions of this Part of this Act given to him as the occupier of land comprised in the agricultural unit to which the proposed order under subsection (1) of this section is to relate.

(6) For the avoidance of doubt it is hereby declared that the termination under paragraph (a) of subsection (1) of this section of the interest of a tenant in any land is to be treated, for the purposes of the provisions relating to compensation of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, as the termination of his tenancy of the land, but nothing in this section shall be construed as entitling the tenant to any compensation for disturbance.

(7) Where under paragraph (a) of subsection (1) of this section an order is made terminating the interest of a tenant in part only of a holding (as defined in the Act of 1923),—

(a) the said provisions relating to compensation shall apply as if the part to which the order relates were a separate holding; and

(b) the tenant shall be entitled to a reduction of rent proportionate to the value of the part to which the order relates, and the amount of that reduction shall, in default of agreement, be determined by arbitration under the Act of 1923.

(8) A certified copy of an order under subsection (1) of this section requiring an occupier to give up his occupation of any land shall be a sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with such order.

33.—(1) Where, at the date as from which a person is required under paragraph (a) or (b) of section (1) of the last foregoing section himself to farm any land or to let it to a person approved by the Secretary of State, the person on whom the requirement is imposed has not complied therewith, the Secretary of State may take possession of the land for the purpose of farming it, and—

PART II.
—cont.
Power of Secretary of State to take possession where occupier dispossessed and no other arrangements made.

- (a) on the Secretary of State taking possession of the land any tenancy thereof granted without the approval of the Secretary of State and since the imposition of the requirement shall be deemed to have terminated by reason of a notice to quit duly given by the landlord, and
- (b) the Secretary of State may by order require the tenant whose tenancy is deemed to have terminated as aforesaid to give up his occupation of the land.

(2) While the Secretary of State is in possession of land under this section it shall be his duty to secure that it is farmed in accordance with the rules of good husbandry either—

- (a) by a person acting under the direction of the Secretary of State, or
- (b) by a person entrusted by the Secretary of State with the farming thereof on such terms, being terms which in the opinion of the Secretary of State would be appropriate to a letting thereof to a tenant from year to year, as may be agreed between the Secretary of State and the said person;

and subject to the provisions of this section the Secretary of State and the person who, apart from any tenancy deemed to have terminated under paragraph (a) of subsection (1) of this section, for the time being would be entitled to possession of the land but for the exercise by the Secretary of State of his powers under this section (hereafter in this section referred to as "the landlord") shall have the like rights against and liabilities to each other as if the Secretary of State were a tenant of the land under a tenancy from year to year beginning on the date on which the Secretary of State took possession of the land and granted by the landlord under a lease containing such provisions (other than provisions as to rent or any such payment as is mentioned in the next following subsection) as may be agreed between the Secretary of State and the landlord, and providing for the making of payments by the Secretary of State of such amounts at such times as a tenant under such a lease might reasonably be expected to make by way of rent.

PART II.
—cont.

(3) On the Secretary of State taking possession of land under this section there shall be ascertained—

- (a) the amount (if any) in addition to rent which might reasonably have been expected to be payable by an incoming tenant, under the lease referred to in the last foregoing subsection, in respect of things previously done for the purposes of the farming of the land, and in respect of seeds, tillages, growing crops and other matters;
- (b) the cost of the carrying out of any work which under the rules of good husbandry or under the lease ought to have been carried out on the land by the occupier before the Secretary of State took possession thereof, being work which is necessary for putting the land into good tenantable condition;

and if the said amount is greater than the said cost the difference shall be recoverable from the Secretary of State by the landlord, and if less the difference shall be recoverable from the landlord by the Secretary of State.

(4) Where the Secretary of State has taken possession of land under this section in consequence of the termination of the interest of a tenant, then, without prejudice to his responsibilities under the rules of good estate management, the landlord shall be liable to the Secretary of State to carry out any work which under the lease with the tenant he was liable to carry out, being work which is necessary for putting the land into good tenantable condition; and any such liability shall be enforceable by the Secretary of State in like manner as if it were imposed by the lease referred to in subsection (2) of this section.

(5) The Secretary of State shall be entitled to continue in possession of land under this section—

- (a) where it is being farmed by a person acting under the direction of the Secretary of State, and it is shown to the Secretary of State that the landlord has made arrangements satisfactory to the Secretary of State for the farming of the land by himself or by a person approved by the Secretary of State, until the next twenty-eighth day of May or twenty-eighth day of November as may be specified in a notice in writing served on the Secretary of State by the landlord not later than two months before the said day;
- (b) where it is being farmed by a person to whom the Secretary of State has entrusted the farming thereof, until that person is entitled to possession of the land as tenant thereof under an agreement with the landlord approved by the Secretary of State.

(6) Nothing in subsection (2) of this section shall entitle the Secretary of State, on giving up possession of land, to compensation for disturbance; but save as aforesaid that subsection shall apply as if when the Secretary of State gives up possession he were quitting the land on the termination of the tenancy referred to in that subsection by notice to quit duly given by the landlord.

(7) The enactments relating to income tax, and in particular such of those enactments as relate to the deduction of tax from rent and to the taxation of excess rents, shall apply—

- (a) in relation to payments made under subsection (2) of this section by the Secretary of State to the landlord, as if the Secretary of State were a tenant and the landlord were a lessor of the land under such a lease as is mentioned in the said subsection (2) and the payments were rent paid thereunder;
- (b) in relation to payments made by any such person as is mentioned in paragraph (b) of that subsection to the Secretary of State, as if the said person were a tenant and the Secretary of State were a lessor of the land under such a letting as is mentioned in the said paragraph (b) and the payments were rent paid thereunder.

(8) Any question arising under subsections (2) to (6) of this section between the Secretary of State and the landlord shall, in default of agreement, be determined by arbitration under the Act of 1923.

(9) A certified copy of an order under subsection (1) of this section requiring a tenant to give up his occupation of any land shall be a sufficient warrant for ejection against the tenant or any party in his right in the event of non-compliance with such order.

34.—(1) On any review under subsection (3) of section twenty-seven of this Act of the management of land or the farming of an agricultural unit of which the owner is not also the occupier,—

- (a) if the review is of management, the Secretary of State shall consider any request made by the occupier that the Secretary of State shall exercise his powers under subsection (1) of section thirty-one of this Act in relation to the land;
- (b) if the review is of farming, the Secretary of State shall consider any request made by any owner of land comprised in the agricultural unit that the Secretary of State shall exercise his powers under subsection (1) of section thirty-two of this Act in relation to the said land.

Power of
tenant or
landlord to
apply for
dispossession
of owner or
occupier.

PART II.
—cont.

(2) Where such a request is made the Secretary of State shall not comply therewith unless he is satisfied that the management or the farming, as the case may be, has not shown satisfactory improvement while the warning notice has been in force, but save as aforesaid may, subject to the provisions of this section, either comply with or refuse the request.

(3) If the Secretary of State proposes to refuse such a request, he shall give notice in writing of his proposal to the owner and to the occupier.

(4) If before the expiration of the prescribed period from the making of such a request no notice has been given either under the last foregoing subsection of a proposal to refuse the request or under section thirty-one or thirty-two of this Act of a proposal complying with the request, the Secretary of State shall be deemed to have given notice of his proposal to refuse the request.

(5) Where notice of a proposal to refuse such a request is given or deemed to have been given the person by whom the request was made may require that the proposal shall be referred to the Land Court and the provisions in that behalf of Part VI of this Act shall apply accordingly.

(6) Where in consequence of a report of the Land Court on a reference under the last foregoing subsection the Secretary of State complies with such a request as aforesaid, the provisions of subsections (4) and (5) of section thirty-one of this Act or subsections (2) and (4) of section thirty-two thereof, as the case may be, shall not apply to any action of the Secretary of State necessary to comply with the request.

Special directions to secure production.

Special
directions to
secure
production.

35.—(1) Where it appears to the Secretary of State necessary so to do in the interest of the national supply of food or other agricultural products, he may by statutory instrument order that all or any of the powers conferred on him by the next following subsection shall be exercisable by him for a period of one year from the making of the instrument, or in the case of an instrument made before the first day of January, nineteen hundred and fifty, and confined to the powers conferred by paragraph (d) of the next following subsection, for the period ending with the thirty-first day of December in that year.

(2) During the period for which the said powers are exercisable the Secretary of State may by notice in writing served on the person occupying or entitled to occupy any agricultural land give such directions—

(a) as to the use of the land for any of the purposes of agriculture and the manner in which and the produce for which it is to be so used,

- (b) as to the carrying out of any work required to enable the land to be used as directed under paragraph (a) of this subsection,
- (c) as to any other matters as to which directions may be given to an occupier of an agricultural unit where a warning notice under this Part of this Act is in force in relation to his farming of the unit,
- (d) without prejudice to the general powers conferred by the foregoing paragraphs, as to the maximum area of land which may be maintained on an agricultural unit under pasture laid down with clover, grass, lucerne, sainfoin or other seeds or under herbage crops grown for commercial seed production,

as appear to the Secretary of State expedient in the interest aforesaid and reasonable having regard to the character and situation of the land and other relevant circumstances.

(3) If any person to whom a direction is given under this section contravenes or fails to comply with the direction, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

(4) Subsections (6) to (9) of section twenty-nine of this Act shall apply in relation to directions under this section as they apply in relation to directions under the said section twenty-nine.

(5) The provisions of the Third Schedule to this Act shall have effect where a direction is given under this section requiring the ploughing-up of permanent pasture or the performing of other acts of cultivation.

(6) Nothing done or omitted by an occupier in pursuance of a direction under this section shall be treated as a failure to fulfil his responsibilities to farm land in accordance with the rules of good husbandry, so long as the act or omission was reasonably necessary in consequence of the giving of the direction.

(7) Any period for which the powers conferred on the Secretary of State by subsection (2) of this section are exercisable shall be extended by a further year if the Secretary of State by statutory instrument made not earlier than one month before the date on which the said period would otherwise expire orders that the said period shall be so extended.

(8) The expiration of the said period shall not affect the operation of any direction under this section previously given.

(9) A statutory instrument made under this section shall be of no effect unless approved by resolution of each House of Parliament:

PART II.
—cont.

Provided that if at the time when such an instrument is made Parliament is dissolved or prorogued or both Houses are adjourned for more than four days, the foregoing provisions of this subsection shall not apply but the instrument shall be laid before Parliament as soon as may be and shall cease to have effect unless approved by resolution of each House of Parliament before the expiration of the twenty-eighth day on which that House has sat after the instrument is laid before it.

Special
directions as
to stocking of
deer forests
and grouse
moors.

36.—(1) Where it appears to the Secretary of State desirable in the interests of food production that steps should be taken for the purpose of promoting, maintaining or increasing the stocking with sheep or cattle, or with both sheep and cattle, of any land forming part of a deer forest or of a grouse moor, the Secretary of State may by notice in writing served on the owner, or, where part of such land is let for agricultural purposes, on the occupier of that part, give such directions as appear to the Secretary of State expedient for the purpose aforesaid.

(2) The Secretary of State shall not give to the owner or the occupier, as the case may be, of any land a direction under subsection (1) of this section until, after affording to him an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, the Secretary of State has given to the owner or the occupier notice in writing of the proposal to give the direction, specifying the nature of the direction which the Secretary of State proposes to give.

(3) Where a direction is proposed to be given under this section to an occupier, an opportunity of making representations to the Secretary of State shall be afforded, and notice in writing of the proposal to give the direction shall be given, to the owner of the land as well as to the occupier.

(4) Any person to whom notice of a proposal is given under this section may require that the proposal shall be referred to the Land Court, and the provisions in that behalf of Part VI of this Act shall apply accordingly.

(5) Subsections (5) and (9) of section twenty-nine of this Act shall apply in relation to a direction under this section as they apply in relation to a direction under the said section twenty-nine.

(6) Where the person to whom a direction has been given under this section has contravened or failed to comply with the direction, then—

(a) if that person is the owner of the land to which the direction relates, the Secretary of State shall have power to purchase the land or any part thereof compulsorily as if a warning notice had been in force in

relation thereto for not less than twelve months and the Secretary of State were satisfied that the management thereof had not, during that period, shown satisfactory improvement, and the provisions of section thirty-one of this Act shall, subject to any necessary modifications, apply accordingly;

- (b) if that person is the occupier of the land to which the direction relates, the Secretary of State shall have the like powers in relation to the land as if it were an agricultural unit in relation to the farming of which a warning notice had been in force for not less than twelve months and the Secretary of State were satisfied that the farming thereof had not, during that period, shown satisfactory improvement, and the provisions of sections thirty-two and thirty-three of this Act shall, subject to any necessary modifications, apply accordingly.

Supplementary.

37. Without prejudice to the general provisions of Part VII of this Act as to the service of notices, any warning notice and any other notice required or authorised by the provisions of this Part of this Act relating to warning notices or to the giving of directions to be served on an owner or occupier shall, where an agent or servant of the owner or occupier is responsible for the control of the management or farming, as the case may be, of the land in question, be duly served if served on that agent or servant: Service of notices on agents.

Provided that where by virtue of this subsection any notice is served in connection with a direction to entrust the management of land to a person approved by the Secretary of State a copy of the notice shall be served on the owner.

38.—(1) In this Part of this Act, the expression “ owner ”, subject to the provisions of the next following subsection, means the person who for the time being is the proprietor of the *dominium utile* or, in the case of land other than feudal land, is the owner thereof. Interpretation of references in Part II to “ owner ” and “ manager ”.

(2) Where, in relation to all or any of the provisions of this Part of this Act,—

- (a) all persons appearing to the Secretary of State to be concerned agree, with the approval of the Secretary of State, that some person shall be treated as the owner of land other than the person who would be so treated apart from the agreement, or
- (b) on an application in that behalf the Land Court determine, having regard to the respective interests of the persons interested in the land, that some

PART II.
—cont.

person shall be treated as the owner of the land other than the person who would be so treated apart from the determination,

that person shall be so treated, but without prejudice to a subsequent agreement or determination or to his ceasing to be so treated if the Secretary of State withdraws his approval under paragraph (a) of this subsection.

(3) Any question arising under this Part of this Act whether two parcels of land are being managed by the same person shall be determined, if the management of either or both of the parcels is under the control of an agent or servant, by reference to the person by whom the agent or servant is employed and not by reference to the agent or servant.

PART III.

CONTROL OF INJURIOUS ANIMALS, BIRDS AND WEEDS.

Prevention of damage by injurious animals and birds.

Control of
injurious
animals and
birds.

39.—(1) If it appears to the Secretary of State that it is expedient so to do for the purpose of preventing damage to crops, pasture, animal or human foodstuffs, livestock, trees, hedges, banks or any works on land, he may by notice in writing served on any person having the right so to do require that person to take, within such time as may be specified in the notice, such steps as may be so specified for the killing, taking or destruction on land so specified of such animals or birds to which this section applies as may be so specified or the eggs of such birds.

(2) A requirement shall not be imposed under the last foregoing subsection if apart from this subsection the killing, taking or destruction in question would be prohibited by law:

Provided that a requirement may be so imposed to kill or destroy game within the meaning of the Game (Scotland) Act, 1772, at a time of year at which apart from this proviso the killing or destruction would be prohibited by section one of that Act; and for the purposes of the last foregoing subsection a person shall not be deemed not to have the right to comply with a requirement falling within this proviso by reason only that apart from this proviso compliance therewith would be prohibited as aforesaid.

(3) The animals to which this section applies are rabbits, hares and other rodents, deer, foxes and moles, and the birds to which this section applies are, in relation to any area, wild birds other than those the killing or taking of which is for the time being prohibited in that area by the Wild Birds Protection Acts, 1880 to 1939, or by any order made by the Secretary

13 Geo. 3.
c. 54.

of State under those Acts; and this section shall apply to such other animals as may be prescribed:

PART III.
—cont.

Provided that regulations under this subsection may provide that for the purposes of section forty-nine of this Act any such other animals specified in the regulations shall not be treated as animals to which this section applies.

(4) The Secretary of State may with the approval of the Treasury make contributions towards the expenses incurred or to be incurred by any person or body of persons in killing, taking or destroying animals or birds to which this section applies or the eggs of such birds.

40. If it appears to the Secretary of State that, for the purpose of preventing such damage as is mentioned in the last foregoing section, it is expedient to prevent the escape of any animals from land on which they are kept in captivity, the Secretary of State may by notice in writing served on the occupier of the land require him to take within such time as may be specified in the notice such steps to prevent the escape thereof, as may be specified in the notice.

Prevention of
escape of
captive
animals.

41.—(1) If any person fails to comply with a requirement imposed under either of the two last foregoing sections, he shall be liable on summary conviction to a fine not exceeding twenty-five pounds, and to a further fine not exceeding five pounds for each day after conviction on which the failure continues.

Supplemen-
tary provisions
as to s. 39 and
s. 40.

(2) Without prejudice to any proceedings under the last foregoing subsection, where a requirement imposed under either of the two last foregoing sections has not been complied with, any person authorised by the Secretary of State in that behalf may at any time enter on the land to which the requirement relates and take such steps as the Secretary of State may direct to secure compliance with the requirement; and the reasonable cost of taking such steps shall be recoverable by the Secretary of State from the person on whom the requirement was imposed.

Any question arising under this subsection as to what is the reasonable cost of taking any such steps as aforesaid shall be determined, in default of agreement, by the Land Court.

(3) The Secretary of State may give such directions as appear to him to be expedient authorising the keeping of animals, birds, or eggs killed or taken in pursuance of section thirty-nine of this Act or this section and requiring or authorising the disposal of such animals, birds or eggs, whether for the purpose of being used as food or otherwise.

(4) Where a person incurs any expense reasonably necessary for the purpose of complying with any requirement imposed on him under either of the two last foregoing sections,

PART III.
—cont.

or where any cost is recovered from a person under subsection (2) of this section, then if he alleges that the expense or cost ought to be borne wholly or in part by some other person having an interest in the land to which the requirement in question relates, he may apply to the Land Court who may make such order for securing that the applicant is wholly or in part indemnified by that other person in respect of the said expense or cost as they consider just and equitable in the circumstances of the case.

(5) Without prejudice to the general provisions of Part VII of this Act as to the service of notices, any notice to be served under either of the two last foregoing sections on the owner or the occupier of land used for agriculture shall, where an agent or servant of the owner or the occupier is responsible for the control of the farming of the land, be duly served if served on the said agent or servant.

Provision by
Secretary of
State of
equipment and
services for
pest control.

42.—(1) The Secretary of State may, for the purpose of assisting in the killing, taking or disposal of animals or birds to which section thirty-nine of this Act applies, and the eggs of such birds, provide or make contributions towards the provision of such services and equipment, appliances and other material as appear to him to be requisite for that purpose.

(2) The Secretary of State may make such reasonable charges, if any, as he thinks fit in respect of any assistance rendered under the last foregoing subsection, and may recover the amount of any such charge from the person at whose request the assistance was rendered.

Prevention of Damage by Deer.

Right of
occupier of
agricultural
holding to kill
deer.

43.—(1) The occupier of an agricultural holding or of enclosed woodlands and any person authorised by him in writing shall be entitled, notwithstanding anything in any contract or agreement between such occupier and his landlord, to kill and take, and to sell or otherwise dispose of the carcasses of, any deer found on any arable land, garden grounds or land laid down in permanent grass (other than moorland and unenclosed land) forming part of the holding, or on such woodlands, as the case may be.

(2) A right conferred by or in pursuance of the foregoing subsection shall not be exercised between one hour after sunset and one hour before sunrise.

Powers of
Secretary of
State to reduce
number of
deer.

44.—(1) Without prejudice to the powers conferred on him by the foregoing provisions of this Part of this Act, the Secretary of State shall, after considering any complaint made to him concerning damage caused on any land by deer to crops, pasture, animal or human foodstuffs, livestock, trees, hedges,

banks or any works on that land, and after affording to the occupier and the owner of the land and any other person appearing to the Secretary of State to have an interest an opportunity of making representations to the Secretary of State whether in writing or on being heard by a person appointed by the Secretary of State, have power to do, if he should think fit, either or both of the following things, that is to say—

- (a) to authorise in writing the occupier of any agricultural holding forming part of the land and such number of persons authorised by the occupier in writing as the Secretary of State may determine, notwithstanding anything in any contract or agreement between such occupier and his landlord, to kill, during such period and subject to such conditions (including conditions as to the removal and sale of the carcasses of deer killed) as the Secretary of State may determine, deer found on any moorland or unenclosed land forming part of the holding; or
- (b) to authorise in writing any person to enter on the land of any owner who has failed to take reasonable steps to control the number of deer on his land, and to kill on such land, during such period and subject to such conditions (including conditions as to the removal and sale of the carcasses of deer killed) as the Secretary of State may determine, such number of deer of either sex as the Secretary of State may think necessary.

(2) A right conferred in pursuance of paragraph (a) of the last foregoing subsection on the occupier of an agricultural holding and persons authorised by him shall not be exercised—

- (a) at any time between the tenth day of April and the sixteenth day of October in any year; or
- (b) between one hour after sunset and one hour before sunrise.

(3) A person authorised under paragraph (b) of subsection (1) of this section shall not be entitled to enter on the land at any time between the tenth day of April and the sixteenth day of October in any year, and shall, before entering on any land for the purpose of killing deer thereon, give to the owner and any tenant thereof not less than ten days' notice of his intention to do so, and shall allow such owner or tenant, if they so desire, an opportunity of assisting in any operations undertaken for the purpose of reducing the number of deer on such land.

(4) Before authorising any person in pursuance of paragraph (a) of subsection (1) of this section, the occupier shall

PART III.
—cont.

give notice in writing to the Secretary of State and to his landlord of the name of the person proposed to be so authorised and shall at the same time certify that that person is experienced in the use of firearms; and the occupier shall not authorise that person until the approval in writing of the Secretary of State has been given.

(5) The Secretary of State may at any time by notice in writing given to the occupier of an agricultural holding withdraw any authorisation granted to him under paragraph (a) of subsection (1) of this section or vary any condition attached to such authorisation with respect to the periods during which the right may be exercised, the number of persons who may be authorised by the occupier, or the number of deer of each sex that may be killed.

(6) The Secretary of State may at any time by notice in writing given to the person in respect of whom approval has been given by him under subsection (4) of this section withdraw that approval; and on such approval being so withdrawn that person shall be deemed to have ceased to be authorised by the occupier.

(7) The Secretary of State shall give notice in writing to the landlord concerned of the granting or the withdrawal of, or of the variation of any condition attached to, any authorisation under paragraph (a) of subsection (1) of this section and of the giving of any approval under subsection (4) of this section, and shall give notice in writing to the occupier and the landlord concerned of the withdrawal under the last foregoing subsection of any approval.

Recovery of
expenses of
killing deer.

45.—(1) When an authority granted by the Secretary of State under paragraph (b) of subsection (1) of the last foregoing section for the killing of deer on any land includes authority to sell the carcasses of the deer killed, the expenses incurred in carrying out the operations so authorised shall be defrayed in the first instance from the proceeds of the sale of the carcasses, and if the said expenses are greater than the said proceeds, the difference shall be recoverable from the owner of the land by the Secretary of State, and if less, the difference shall be recoverable from the Secretary of State by the owner of the land.

(2) When such authority does not include authority to sell the carcasses, the carcasses shall be deemed to be the property of the owner of the land, and the expenses, or such proportion thereof as the Secretary of State may think equitable, incurred in carrying out the operations so authorised shall be recoverable by the Secretary of State from the owner of the land.

(3) Where the land belongs to two or more owners the difference between the expenses and the proceeds as ascertained under subsection (1) of this section, or the expenses

or the proportion thereof as ascertained under subsection (2) of this section, shall be recoverable by or recoverable from, as the case may require, those owners in such proportions as the Secretary of State may allocate, and in making such allocation the Secretary of State shall take into account any services rendered by any owner in connection with the carrying out of operations on his land.

PART III.
—cont.

(4) The Secretary of State shall furnish to each owner a statement showing the expenses incurred in carrying out the operations authorised as aforesaid, the amount, if any, received in respect of the sale of the carcasses and the amount recoverable by or recoverable from each owner under this section; and any owner who is aggrieved by such statement or any part thereof may, within one month after such statement has been furnished to him, appeal to the Land Court who may, if it appears to them equitable so to do, vary the amount recoverable by or recoverable from the owner, as the case may be.

46.—(1) The Secretary of State may by notice in writing served on the owner of any land require him to make a return in such form as the Secretary of State may require showing the number of deer of each sex which to his knowledge have been killed on the land during such period (not exceeding five years) immediately preceding the service of the notice as may be specified therein, and also a return showing the number of deer of each sex which he estimates to be on the land.

Returns of
numbers etc.
of deer.

(2) If any person on whom a notice under the foregoing subsection has been served—

- (a) fails or neglects to make the required return within thirty-six days after the service of the notice, or
- (b) in making such a return as aforesaid knowingly or recklessly furnishes any information which is false in a material particular,

he shall be liable on summary conviction to a fine not exceeding fifty pounds.

47. Notwithstanding the provisions of section eighty-two of this Act, the powers of entry and inspection thereby conferred shall not, during the period beginning on the first day of August and ending on the fifteenth day of October, be exercisable in relation to land occupied and used as a deer forest for the purpose of determining whether, and if so in what manner, any of the powers conferred on the Secretary of State under this Part of this Act are to be exercised.

Restriction of
entry on and
inspection of
deer forest
land.

Amendments of Law relating to Killing of Hares and Rabbits.

48.—(1) Paragraph (3) of the proviso to section one of the Ground Game Act, 1880 (which paragraph restricts the exercise of the rights conferred by the section on the occupiers of certain lands to kill and take ground game otherwise than

Amendment of
43 & 44 Vict.
c. 47, s. 1.

PART III.
—cont.

by the use of firearms to the period from the first day of September to the thirty-first day of March, and as regards killing and taking with firearms to the period from the eleventh day of December to the thirty-first day of March), shall cease to apply as regards killing and taking otherwise than by the use of firearms, and shall, as regards killing and taking with firearms, have effect as if for the words "eleventh day of December" the words "first day of July" were substituted.

(2) The Secretary of State may, on the application of an occupier of land, and after affording to the landlord thereof an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, sanction the authorisation by such occupier of such number of persons to kill and take ground game on the land in addition to any person so authorised in pursuance of section one of the Ground Game Act, 1880, as the Secretary of State may, having regard to the extent of the land, think reasonable; and the provisions of the said section one with regard to the production by persons authorised by the occupier of the documents by which they are so authorised shall apply to any person authorised in pursuance of any such sanction as aforesaid in like manner as those provisions apply to persons authorised in pursuance of that section. The occupier shall, on authorising any person in pursuance of this subsection, forthwith give notice in writing to the landlord of the name of that person:

Provided that the number of persons who may be authorised as aforesaid shall not be increased without an opportunity being given to the landlord of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State.

(3) The Secretary of State may at any time—

- (a) require an occupier to withdraw any authorisation, or
- (b) recall or vary any sanction,

granted under the last foregoing subsection.

(4) Section three of the Ground Game Act, 1880, shall not apply to prevent the occupier of land and the owner of such land or any other person having a right to kill and take game thereon from making and enforcing agreements for the joint exercise, or the exercise for their joint benefit, of the right to kill and take ground game otherwise than by the use of firearms:

Provided that this subsection shall not apply in relation to any such agreement as aforesaid which was made after the commencement of this section and to which the tenant of a holding within the meaning of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, is a party, unless the agreement was made after the lease under which the tenant holds the land was entered into.

(5) The Ground Game (Amendment) Act, 1906, shall cease to have effect. 6 Edw. 7. c. 21.

49. A person shall not be guilty of an offence under section seven of the Protection of Animals (Scotland) Act, 1912, by reason only that he uses poisonous gas, or places a substance which, by evaporation or in contact with moisture, generates poisonous gas, in any hole, burrow or earth for the purpose of killing animals to which section thirty-nine of this Act applies. Provision as to use of poisonous substances. 2 & 3 Geo. 5. c. 14.

50.—(1) If any person—

- (a) between the expiration of the first hour after sunset and the commencement of the last hour before sunrise, uses a firearm for the purpose of killing hares or rabbits; or
- (b) uses or knowingly permits the use for that purpose of a spring trap other than a spring trap of a type and make for the time being approved by the Secretary of State;

Prohibition of night shooting, and use of spring traps.

he shall be liable on summary conviction to a fine not exceeding twenty pounds or, in the case of a second or subsequent conviction under this section, to a fine not exceeding fifty pounds:

Provided that it shall be a defence for a person charged with the offence mentioned in paragraph (b) of this subsection to prove that the trap was used under an authority granted by the Secretary of State and that it was used in a rabbit hole.

(2) The Secretary of State may from time to time by order authorise the use for the purpose aforesaid of spring traps other than traps of a type and make approved by him, and such authority may be granted as respects all land in Scotland, or as respects the land in any county or any part of a county, or as respects any particular land or class of land, as may be specified in the order:

Provided that when the Secretary of State is satisfied that there are available in sufficient quantities spring traps of a type and make approved by him he may by regulation withdraw all authorities granted by him under this subsection; and after such regulation has been made it shall not be lawful for the Secretary of State, unless such regulation is revoked under subsection (1) of section five of the Statutory Instruments Act, 1946, to authorise the use of spring traps other than traps of a type and make approved by him.

(3) Section six of the Ground Game Act, 1880 (which relates to night shooting and the use of spring traps above ground or of poison for the purpose of killing hares or rabbits), shall cease to have effect. 43 & 44 Vict. c. 47.

PART III.

Injurious Weeds.

—*cont.*
Destruction of
injurious
weeds.
11 & 12 Geo. 5.
c. 48.

51. The Schedule to the Corn Production Acts (Repeal) Act, 1921 (which contains provisions for securing the destruction of injurious weeds specified in paragraph (8) thereof) shall have effect, in its application to Scotland, as if there were specified in the said paragraph (8) such additional injurious weeds as the Secretary of State may by regulations under this section prescribe.

Supplementary.

Saving of
right to
compensation
for damage
by game.

52. Nothing in this Part of this Act or anything done thereunder shall preclude the occupier of an agricultural holding from recovering any compensation for damage by game which he would have been entitled to recover if this Act had not passed.

Persons acting
under this
Part of this
Act not
required to
obtain game
licences.

53. A person authorised or required to kill or to take any animal or bird under the provisions of this Part of this Act shall not be required to obtain for that purpose a licence to kill game, and shall have the like power of selling any such animal or bird in pursuance of any such authorisation or requirement as if he had such a licence; but nothing in this Part of this Act shall exempt any person from the provisions of the Gun Licence Act, 1870.

33 & 34 Vict.
c. 57.

Interpretation
of Part III.

54. In this Part of this Act, the following expressions have, unless the context otherwise requires, the meanings hereby respectively assigned to them, that is to say—

“ deer ” includes deer of any species;

“ occupier of an agricultural holding ” includes the tenant of a holding within the meaning of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, and a landholder and a statutory small tenant within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931;

“ owner ”, in relation to 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;

“ woodlands ” includes forests of trees and plantations.

PART IV.

ACQUISITION OF LAND.

General powers of acquisition and management of land by the Secretary of State.

Powers of
Secretary of
State to
acquire land
by agreement.

55. The Secretary of State may by agreement acquire whether by way of purchase, feu, lease, excambion or otherwise—

(a) any land used for agriculture;

- (b) any other land which in the opinion of the Secretary of State ought to be brought into use for agriculture;
- (c) where any such land as aforesaid is offered to the Secretary of State for acquisition by him on the condition that he also acquires other land not falling within the two foregoing paragraphs, that other land;
- (d) any other land as respects which power is conferred on the Secretary of State by this Act to purchase the land compulsorily in accordance with the provisions of this Act in that behalf.

PART IV.
—cont.

56. The Secretary of State may acquire by compulsory purchase in accordance with the provisions of this Act in that behalf any land for the purposes of agricultural research or experiment or of demonstrating agricultural methods.

Acquisition by Secretary of State of land for research, experiment and demonstration.

57.—(1) Where—

- (a) the Secretary of State is satisfied in the case of any agricultural land that the full and efficient use of the land for agriculture is being prevented by reason of work not being carried out or fixed equipment not being provided, and that having regard to the nature of the work or equipment required for such use of the land as aforesaid it cannot reasonably be expected to be carried out or provided unless the Secretary of State exercises his powers under this subsection; or
- (b) the Secretary of State is satisfied in the case of any agricultural land that the full and efficient use of the land for agriculture will be prevented if existing fixed equipment thereon is not maintained, and that having regard to the nature of the equipment it cannot reasonably be expected to be maintained unless the Secretary of State exercises his powers under this subsection; or
- (c) agricultural land has been severed from other such land in the exercise of powers conferred, for purposes other than agricultural purposes, by or under any enactment, or has been otherwise injuriously affected in the exercise of such powers, or such powers have been conferred and the Secretary of State is satisfied that they will be exercised so that agricultural land will be severed or otherwise injuriously affected as aforesaid, and (in any case) the Secretary of State is satisfied that the full and efficient use of the land for agriculture cannot be achieved unless the land

Acquisition of land by Secretary of State to ensure full and efficient use thereof.

PART IV.
—cont.

is used therefor in conjunction with other land and that it cannot reasonably be expected to be so used unless the Secretary of State exercises his powers under this subsection,

then, if the Secretary of State proposes to secure the carrying out of the work, the provision or maintenance of the equipment, or the use of the land in conjunction with other land, as the case may be, he may acquire the land or any part thereof by compulsory purchase in accordance with the provisions of this Act in that behalf.

(2) Before proceeding with the acquisition of land under paragraph (a) or paragraph (b) of the last foregoing subsection the Secretary of State shall refer to the Land Court for their report thereon the question whether the conditions are fulfilled as to which, under the said paragraph (a) or (b), as the case may be, the Secretary of State must be satisfied before acquiring the land, and shall take into consideration the report of the Land Court, and the Secretary of State shall make a similar reference to the Land Court before proceeding with the acquisition of land under paragraph (c) of the foregoing subsection or subsection (5) of this section if the owner of the land so requires.

(3) On any such reference the Land Court, after inspecting the land in question and making such other enquiries as appear to them requisite and after affording an opportunity of being heard to the owners, lessees and occupiers of the land in question, shall prepare and submit to the Secretary of State a report on the question referred to them containing such information as to work to be carried out or fixed equipment to be provided or maintained as mentioned in the said paragraph (a) or (b) as appears to the Land Court necessary for indicating whether such work or equipment can reasonably be expected to be carried out, provided or maintained without the exercise by the Secretary of State of his powers under subsection (1) of this section.

(4) The Secretary of State shall serve a copy of the report submitted under the last foregoing subsection on the owners, lessees and occupiers of the land to which the report relates.

(5) The Secretary of State may acquire by compulsory purchase in accordance with the provisions of this Act in that behalf any land as to which he is satisfied that its acquisition by him is necessary in order to put to full and efficient use for agriculture land acquired by him under subsection (1) of this section.

Amendment of
4 & 5 Geo. 6.
c. 50, ss. 9 and
10, and 6 & 7
Geo. 6. c. 16,
s. 16.

58. Nothing in section nine or ten of the Agriculture (Miscellaneous Provisions) Act, 1941, or section sixteen of the Agriculture (Miscellaneous Provisions) Act, 1943, shall require the Secretary of State, in the case of land acquired by him under the said section nine or sixteen, to resell the

land except in pursuance of an offer made and duly accepted under subsections (1) to (4) of the said section ten.

PART IV.
—cont.

59.—(1) The appropriate Ministers may by order provide for the transfer to and vesting in the Secretary of State of any interest in land, being an interest belonging to a government department or held on behalf of His Majesty for the purposes of any government department, in any case where it appears to the appropriate Ministers to be expedient that the interest should be transferred to the Secretary of State either on the ground that it is no longer required to be held for the purpose for which it was acquired or otherwise, and any order under this section may contain such incidental and supplementary provisions as appear to the appropriate Ministers necessary or expedient for giving effect to the order.

Transfer to Secretary of State of land vested in other government departments.

(2) In this section the expression “ the appropriate Ministers ” means the Secretary of State and the Minister in charge of the government department in question.

60. The Secretary of State may by order made with the consent of the Treasury provide for the appropriation by him for the purposes of any function conferred on him by any enactment of any interest in land acquired by or vested in him for the purposes of any function conferred on him by any other enactment; and an order under this section may contain such incidental and supplementary provisions as appear to the Secretary of State necessary or expedient for giving effect to the order.

Power of Secretary of State to appropriate land.

61.—(1) The Secretary of State may manage, farm, sell, let or otherwise deal with or dispose of land acquired by him under this Act—

Powers of management etc., of land acquired by Secretary of State.

- (a) in such manner as appears to him expedient for the purpose for which the land was acquired; or
- (b) if he is satisfied that the land ought to be devoted to some other purpose, in such manner as appears to him expedient therefor.

(2) The Secretary of State may manage, farm or let any land which is placed at his disposal for the purpose, being land an interest in which belongs to a government department or is held in trust for His Majesty for the purposes of a government department, or an interest in which belongs to any Authority, Board, Commission or body constituted by or under any 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.

PART IV.
—cont.

(3) The Secretary of State shall have power to provide such facilities for the welfare of tenants of, or other persons employed in agriculture on, land managed by him as he thinks expedient.

Repeal of
21 & 22 Geo. 5.
c. 41, ss. 1 to 4.

62. Sections one to four of the Agricultural Land (Utilisation) Act, 1931 (which enable the Secretary of State to acquire land for demonstration farms and for reclamation) shall cease to have effect.

Provisions as to compulsory acquisition of land.

Procedure for
compulsory
purchase of
land.

63.—(1) Subject to the provisions of this and of the next following section, where under any provision of this Act power is conferred on the Secretary of State to purchase land compulsorily, the power shall be exercisable for the purchase of any particular land on the Secretary of State being authorised so to purchase the land in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, and that Act shall apply accordingly—

10 & 11 Geo. 6.
c. 42.

- (a) as if paragraph (d) of subsection (1) of section one thereof (which refers to the compulsory purchase of land by the Secretary of State under the National Health Service (Scotland) Act, 1947) included a reference to any compulsory purchase of land by the Secretary of State under this Act; and
- (b) as if this Act had been in force immediately before the commencement of the said Act of 1947:

10 & 11 Geo. 6.
c. 27.

Provided that section two of that Act (which confers temporary powers for the speedy acquisition of land in certain cases) shall not apply to any compulsory purchase of land under this Act.

(2) Where under any provision of this Act power is conferred on the Secretary of State to purchase any particular land compulsorily on the giving of a certificate by him, the certificate shall have effect as if it were a compulsory purchase order made under section one of the said Act of 1947, and—

- (a) where the certificate relates to land falling within subsection (2) of the said section one (which applies to purchases of local authorities' and statutory undertakers' land, commons, open spaces, land held inalienably by the National Trust for Scotland and ancient monuments and other objects of archaeological interest, the special procedure set out in Part III of the First Schedule to that Act) the certificate shall be embodied in an order of the Secretary of State and the said Part III shall apply accordingly;

- (b) subsection (3) of the said section one and the Second Schedule to the said Act of 1947 (which provide for incorporation of the Lands Clauses Acts and other enactments) shall have effect in relation to the purchase, and anything which under that Schedule may be provided by a compulsory purchase order may be provided by the said certificate;
- (c) in the application to the certificate of Part IV of the First Schedule to the said Act of 1947 (which relates to the validity and coming into operation of compulsory purchase orders) for references to the first publication of notice of the making of an order there shall be substituted references to the service of notice of the giving of the certificate, and for references to the requirements of the said First Schedule and of regulations made thereunder there shall be substituted references to the requirements of this Act as to the proceedings to be taken before the giving of the certificate.

PART IV.
—cont.

PART V.

LAND SETTLEMENT.

Provision of holdings by the Secretary of State.

64.—(1) For the purpose of providing agricultural holdings, being either holdings of which the area does not exceed seventy-five acres or holdings the annual rent of which does not exceed one hundred and fifty pounds, the Secretary of State shall have the like power to acquire land by agreement or compulsorily as he has for the purposes of the Small Holding Colonies Acts, 1916 and 1918, and those Acts and Part I of the Land Settlement (Scotland) Act, 1919, shall have effect as if the provision of such agricultural holdings as aforesaid were included among the purposes of the said Acts of 1916 and 1918.

Power of
Secretary of
State to
provide and
equip
holdings.

(2) The Secretary of State shall have, in relation to any land acquired or appropriated by him for the purpose first mentioned in the last foregoing subsection, the like powers of adaptation, equipment and management as he has in relation to land acquired by him for the purpose of providing smallholdings.

Provisions as to loans.

65.—(1) The Secretary of State may make loans to provide working capital to any person who after the commencement of this Part of this Act becomes the tenant of a holding provided by the Secretary of State on land vested in him of an

Loans to
tenants of
holdings.

PART V.
—cont.

amount not exceeding three-quarters of the estimated aggregate working capital required for the proper working of the holding.

(2) The Secretary of State may make grants or loans to any body of persons, whether corporate or unincorporated, having for its object or one of its objects the promotion through co-operative methods of efficiency in the conduct of holdings.

(3) The powers of the Secretary of State under this section shall be exercised in accordance with arrangements made by him with the approval of the Treasury.

(4) In this section the expression " holding " means a holding within the meaning of the Agricultural Holdings (Scotland) Acts, 1923 to 1948, or a holding within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931.

Recovery of
loans in the
event of
failure of
statutory
successor.

1 & 2 Geo. 5.
c. 49

66. Section eight of the Small Landholders (Scotland) Act, 1911 (which contains provisions regulating loans to landholders) shall have effect as if after subsection (1) there were inserted the following subsection—

" (2) In the event of failure of a statutory successor taking place or being deemed under section twenty-two of this Act to have taken place the landlord shall be liable to repay to the Board the amount of any outstanding liability in respect of a loan made under the immediately preceding section :

Provided that the Board shall not be entitled to recover from the landlord under this subsection any sum in excess of such amount as may be agreed or, in the event of dispute, be assessed by the Land Court to be the amount which would have been due by the landlord by way of compensation for permanent improvements if the holding had been renounced at the date at which failure of a statutory successor took place or was deemed as aforesaid to have taken place."

Agriculture (Scotland) Fund.

Winding-up of
Agriculture
(Scotland)
Fund.

67. The Agriculture (Scotland) Fund shall, in accordance with directions of the Treasury, be wound up as at such date as the Treasury may direct, being a date not later than the end of the financial year next after that in which this section comes into operation, and—

(a) any balance in that Fund at that date shall be applied in repayment of the amounts outstanding of any loans made by the Public Works Loan Commissioners under section twenty-six of the Land Settlement (Scotland) Act, 1919, and any remainder shall be paid into the Exchequer;

9 & 10 Geo. 5.
c. 97.

- (b) any payments which apart from this section would be authorised to be paid out of that Fund shall, if falling due after that date, be defrayed out of moneys provided by Parliament;
- (c) any receipts of the Secretary of State after that date, being receipts which apart from this section would be authorised to be paid into that Fund, shall be paid into the Exchequer.

PART V.
—cont.

PART VI.

ADMINISTRATIVE.

Agricultural Executive Committees.

68.—(1) For each of such areas as may be prescribed the Secretary of State shall establish an Agricultural Executive Committee which shall be charged, in relation to the area for which the Committee are established, with the duty of exercising such functions as the Secretary of State may delegate to the Committee under the next following section.

Establishment
and functions
of Agricultural
Executive
Committees.

(2) An Agricultural Executive Committee may with the approval of the Secretary of State, and shall if the Secretary of State so requires, appoint one or more sub-committees, and the Agricultural Executive Committee shall refer to a sub-committee for report and recommendation such matters as may be determined by the Committee or as may be required by the Secretary of State, and shall delegate to a sub-committee such of the functions delegated to the Committee, to such extent and subject to such conditions or restrictions, as may with the approval of the Secretary of State be so determined or as may be so required.

(3) In the exercise of the functions delegated to them an Agricultural Executive Committee shall comply with any directions given by the Secretary of State, and a sub-committee shall comply with any directions given (whether on the requirement of the Secretary of State or not) by the Agricultural Executive Committee by whom the sub-committee were established.

(4) The provisions in that behalf of Part I of the Eighth Schedule to this Act shall have effect as to the constitution of Agricultural Executive Committees and sub-committees and otherwise in relation thereto.

(5) Without prejudice to the provisions of the next following section, the functions under any enactment of any Agricultural Executive Committee therein referred to shall in such cases as may be prescribed be transferred to the Secretary of State.

PART VI.

—*cont.*

Delegation of
functions of
Secretary of
State to
Agricultural
Executive
Committees.

69. The Secretary of State may make regulations providing for delegating to an Agricultural Executive Committee, to such extent and subject to such conditions or restrictions as may be specified by or under the regulations, such of his functions—

(a) under this Act;

(b) under any other enactment (whether passed before or after the passing of this Act), being functions relating to agriculture,

as may be so specified.

The Land Court.

Provisions as
to appoint-
ment of
additional
members of the
Land Court.

70.—(1) The number of persons who may be appointed by His Majesty by virtue of section three of the Small Landholders (Scotland) Act, 1911, to be members of the Scottish Land Court (in this Act referred to as "the Land Court") shall be increased from five to seven; and accordingly the said section three shall have effect as if in subsection (1) for the word "five" there were substituted the word "seven."

(2) Any increase arising by reason of the provisions of this section in the sums charged on the Consolidated Fund of the United Kingdom under the said section three, and in the expenditure incurred under the Scottish Land Court Act, 1938, shall respectively be charged on and paid out of that Fund and defrayed out of moneys provided by Parliament.

1 & 2 Geo. 6.
c. 31.

References to
the Land
Court.

71.—(1) In any case where by any of the provisions of this Act a person is empowered to require that a proposal of the Secretary of State to take any action shall be referred to the Land Court, then if within the prescribed time and in the prescribed manner the said person so requires, the proposal shall be referred accordingly.

(2) On any such reference the Land Court shall determine—

(a) whether the conditions as to which the Secretary of State must be satisfied before taking the action are fulfilled, and

(b) whether, having regard to their determination under the foregoing paragraph and to all the circumstances of the case, the Secretary of State should or should not take the action proposed,

and shall report to the Secretary of State accordingly; and the Secretary of State shall forward a copy of the report to any person who availed himself of an opportunity to make representations to the Secretary of State afforded to him under the provisions in question of this Act.

(3) In any such case as is mentioned in subsection (1) of this section the Secretary of State shall not give effect to the proposal until the expiration of the period within which a reference to the Land Court may be required.

PART VI.
—*cont.*

(4) Where such a reference is duly required, the Secretary of State shall act in accordance with the report of the Land Court and not otherwise.

(5) Forthwith after taking action in any such case as is mentioned in subsection (1) of this section, the Secretary of State shall serve notice thereof in writing on any person who under the provisions in question of this Act was entitled to be afforded an opportunity to make representations to the Secretary of State.

72. The provisions of the Small Landholders (Scotland) Acts, 1886 to 1931, with regard to the Land Court shall, with any necessary modifications, apply for the purpose of the determination of any matter which they are required by or under this Act to determine, in like manner as those provisions apply for the purpose of the determination by the Land Court of matters referred to them under those Acts.

Proceedings of
the Land
Court.

Agricultural Advisory Committees.

73.—(1) The Secretary of State may, for each of such districts as he may determine, establish an Agricultural Advisory Committee for the purpose of advising him or any agricultural college or other body concerned with agricultural education or agricultural advisory services in Scotland, on matters relating to—

Establishment
and functions
of Agricultural
Advisory
Committees.

- (a) technical education and development in agriculture,
- (b) the improvement of farming practice or of estate management, whether generally or in relation to any particular agricultural land,
- (c) agricultural development and improvement schemes administered by him.

(2) The provisions in that behalf of Part II of the Eighth Schedule to this Act shall have effect as to the constitution of Agricultural Advisory Committees and otherwise in relation thereto.

PART VII.

GENERAL.

Minor Arterial Drainage.

Amendment of
3 & 4 Geo. 6.
c. 14, s. 29.

74.—(1) Section twenty-nine of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which provides that the Secretary of State may, on consideration of a report from the appropriate Agricultural Executive Committee, take steps to secure the cleansing of the channels of water courses or the carrying out of other measures for preventing damage by flooding in any case where the cost of the operations would not exceed an amount equal to five pounds for each acre of agricultural land benefited by the operations) shall have effect subject to the following amendments, that is to say—

- (a) in subsection (1) the words “ on consideration of a report from the Agricultural Executive Committee for any area in Scotland ”, the words “ in the area of that Committee ” and the words “ in the area of the Committee ” shall cease to have effect;
- (b) in paragraph (c) of subsection (1), for the words “ five pounds ” there shall be substituted the words “ ten pounds ”; and
- (c) in subsection (10) the words from “ and the expression ” to the end of the subsection shall be omitted.

(2) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the expense authorised by subsection (9) of the said section twenty-nine to be defrayed out of moneys so provided.

Provision of Goods and Services.

Schemes for
provision of
agricultural
goods and
services.

75.—(1) For the purpose of promoting efficiency in agriculture or facilitating food production, the Secretary of State may with the approval of the Treasury make schemes for providing goods and services to persons managing or farming agricultural land.

Any scheme under this section shall be embodied in a statutory instrument which shall be laid before Parliament after being made.

(2) A scheme under this section shall not authorise the provision of goods after the expiration of five years from the first day of October, nineteen hundred and forty-seven or such longer period as may be prescribed.

(3) The Secretary of State may make such reasonable charges, if any, as he thinks fit in respect of goods and services provided in pursuance of a scheme under this section.

PART VII.
—cont.

(4) The Secretary of State may acquire by agreement any land which he requires for the purposes of a scheme under this section.

(5) Section one hundred and three of the Agriculture Act, 1947, shall, in so far as it applies to Scotland, cease to have effect, and anything done by the Secretary of State or any scheme made under that section shall be deemed to have been done or made under this section. 10 & 11
Geo. 6. c. 48

76. Without prejudice to any powers competent to him under the last foregoing section, the Secretary of State may at the request of and by agreement with the owner or the occupier of any agricultural land carry out agricultural drainage works by means of mechanical excavators or otherwise as may be agreed, and may recover from such owner or occupier the cost of carrying out the works. Provision of
machinery for
agricultural
drainage
works.

77.—(1) The Secretary of State may provide assistance by way of grants towards the erection or improvement or rebuilding of dwelling-houses and other buildings for landholders and cottars in the Highlands and Islands. Grants
towards
provision of
houses etc.,
for landholders
and cottars
in Highlands
and Islands.

(2) The powers of the Secretary of State under this section shall be exercised in accordance with arrangements made by him with the approval of the Treasury.

(3) Regulations shall be made by the Secretary of State—

(a) for securing that where a grant has been made towards the erection, improvement or rebuilding of a house or other building, conditions with respect to the occupation and maintenance thereof shall apply thereto for such period from the completion of the work (not being longer than forty years) as may be specified in the regulations;

(b) for securing that in the event of a breach of any of the conditions the Secretary of State may recover from such person as may be specified in the regulations a sum bearing the same proportion to the grant made as the period between the date of the breach of the condition and the expiration of the period specified under paragraph (a) of this subsection bears to the last-mentioned period, together with interest on such sum from the date on which the grant was

PART VII.
—cont.

made at such rate as may be specified in the regulations;

- (c) for providing that the conditions applied by the regulations to a house or building shall cease to apply on payment to the Secretary of State by such person as may be specified in the regulations of such amount as may be so specified;
- (d) for applying, subject to any necessary modifications, in relation to a house or building towards the erection, improvement or rebuilding of which a grant has been made under this section, the provisions of section seven of the Housing (Agricultural Population) (Scotland) Act, 1938 (which restricts the compensation payable in respect of improvements, and prohibits increases in the rents of houses, in respect of which assistance has been granted under Part II of that Act);
- (e) for such other incidental and supplementary matters as appear to the Secretary of State to be requisite or expedient for the purposes aforesaid.

(4) No assistance by way of grant shall be given under this section towards the erection, improvement or rebuilding of any house in respect of which assistance under section four of the Housing (Agricultural Population) (Scotland) Act, 1938, has been given.

(5) In this section the expressions "landholder" and "cottar" have the like meanings as in the Small Landholders (Scotland) Acts, 1886 to 1931, and the expression "Highlands and Islands" has the like meaning as in the Housing (Agricultural Population) (Scotland) Act, 1938.

Extension of time for applying for assistance under s. 4 of the Housing (Agricultural Population) (Scotland) Act, 1938.
6 & 7 Geo. 6.
c. 22.

78.—(1) Subsection (3) of section four of the Housing (Agricultural Population) (Scotland) Act, 1938 (which, as amended by the Housing (Agricultural Population) (Scotland) Act, 1943, provides among other things that applications for assistance in the replacement of unsatisfactory houses must be made within ten years after the passing of the said Act of 1938) shall have effect as if for the words "ten years" there were substituted the words "fifteen years."

(2) Subject to the provisions of any amending scheme made after the commencement of this section by a local authority with the approval of the Secretary of State, so much of any scheme in force at the commencement of this section under section four of the said Act of 1938 as specifies the date before which applications for assistance must be received by the local

authority shall have effect subject to such modifications as may be required to give effect to the foregoing provisions of this section.

PART VII.
—cont.

(3) No assistance shall be given under section four of the said Act of 1938 in respect of any house in respect of which a grant has been made under the last foregoing section of this Act.

(4) Any increase attributable to the provisions of this section in the sums payable out of moneys provided by Parliament by virtue of sections eight and nine of the said Act of 1938 shall be defrayed out of moneys so provided.

(5) Subsection (2) of section one of the Housing (Agricultural Population) (Scotland) Act, 1943, shall cease to have effect.

(6) This section shall come into operation on the passing of this Act.

Provision as to congested districts.

79. For the purposes of the Congested Districts (Scotland) Act, 1897, the landward parts of the parishes specified in the Seventh Schedule to this Act shall be deemed to be congested districts, and the provisions of that Act shall have effect accordingly.

Amendment
of
60 & 61 Vict.
c. 53.

Supplementary.

80.—(1) Any enactment in this Act providing, in relation to the taking of any action by the Secretary of State, for his taking the action after affording to a person an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, shall be construed as a provision that the Secretary of State shall comply with the following requirements.

Provisions
as to
representations.

(2) The Secretary of State shall give notice to the said person specifying the action proposed to be taken and informing him of the effect of the three following subsections.

(3) If within the prescribed time and in the prescribed manner the said person makes representations to the Secretary of State in writing, the Secretary of State shall not take the action in question until he has considered the representations.

(4) If, whether or not representations are made to the Secretary of State in writing, the said person within the prescribed time and in the prescribed manner requires that an opportunity be afforded to him of being heard by a person appointed by the Secretary of State for the purpose, such an

PART VII.
—cont.

opportunity shall be afforded to him and, on the same occasion, to any other person to whom under the enactment referred to in subsection (1) of this section the Secretary of State is required to afford such an opportunity, and the Secretary of State shall not take the action in question until he has considered any representations made at the hearing.

(5) No officer or servant of an Agricultural Executive Committee or of any sub-committee thereof shall be appointed under the last foregoing subsection to receive representations relating to land in the area of the Committee.

Expenses and
receipts.

81.—(1) All expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.

(2) All sums received by the Secretary of State under this Act, including sums received on his behalf by any person or body of persons exercising functions on behalf of the Secretary of State, shall be paid into the Exchequer.

Provisions as
to entry and
inspection.

82.—(1) Any person authorised by the Secretary of State in that behalf shall have power at all reasonable times to enter on and inspect any land for the purpose of determining whether, and if so in what manner, any of the powers conferred on the Secretary of State by this Act are to be exercised in relation to the land, or whether, and if so in what manner, any direction given under any such power has been complied with.

(2) Any person authorised by the Secretary of State who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power.

(3) Admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid—

(a) if the power is being exercised for determining whether the land is to be acquired under Part IV or Part V of this Act, or

(b) if the land is being used for residential purposes, unless twenty-four hours notice of the intended entry has been given to the occupier of the land.

(4) Save as provided by the last foregoing subsection, admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid, other than the power conferred by paragraph (a) of subsection (1) of section

twenty-seven of this Act, unless notice has been given to the occupier of the land that it is proposed to enter during a period, specified in the notice, not exceeding fourteen days and beginning at least twenty-four hours after the giving of the notice, and the entry is made on the land during the period specified in the notice:

PART VII.
—cont.

Provided that where the power of entry is being exercised for the purpose of taking measures to secure compliance with a direction or requirement under the provisions of section twenty-nine or of section thirty-five or of Part III of this Act, and notice is given in accordance with this subsection on the first occasion on which the power is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the taking of the measures.

(5) Where notice is served in a case falling within the proviso to the last foregoing subsection, and the person to whom the direction therein referred to was given, or on whom the requirement therein referred to was imposed, is not the occupier of the land, a like notice shall be served on that person.

(6) Any notice served in pursuance of the last foregoing subsection or the proviso therein referred to may be served in like manner as the notice giving the said direction or imposing the said requirement.

(7) Any person who, in any case for which no penalty is provided by the foregoing provisions of this Act, obstructs any person authorised by the Secretary of State exercising any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

83.—(1) Any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter. Service of notices.

(2) Any such document required or authorised to be given to or served on an incorporated company or body shall be duly given or served if given to or 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 to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or 52 & 53 Vict.
c. 63.

PART VII.
—cont.

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 in question.

(4) Where any document is to be given to or served on a person as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it), and delivering the document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.

Nomination of
arbitrer in cases
to which the
Secretary of
State is a
party.

84. Where the Secretary of State is a party to any question or difference which under the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or this Act, is to be determined by arbitration under the Act of 1923 or by an arbitrer appointed in accordance with the provisions of that Act, the arbitrer shall in lieu of being nominated by the Secretary of State be nominated by the Land Court, and the remuneration of the arbitrer so nominated shall be such amount as may be fixed by the Land Court.

Regulations
and orders.

85.—(1) Any regulations made by the Secretary of State under this Act shall be embodied in a statutory instrument which shall be subject to annulment in pursuance of resolution of either House of Parliament.

(2) In this Act the expression “prescribed” means prescribed by regulations made by the Secretary of State.

(3) Any power conferred by this Act to make an order shall include a power, exercisable in the like manner and subject to the like conditions, to revoke or vary the order.

Interpreta-
tion

86.—(1) In this Act the expression “agricultural land” means land used for agriculture which is so used for the purposes of a trade or business, or which is designated by the Secretary of State for the purposes of this subsection, and includes any land so designated as land which in the opinion of the Secretary of State ought to be brought into use for agriculture:

Provided that no designation under this subsection shall extend—

(a) to land used as pleasure grounds, private gardens or allotment gardens, or

(b) to land kept or preserved mainly or exclusively for the purposes of sport or recreation, except where the Secretary of State is satisfied that its use for agriculture would not be inconsistent with its use for the said purposes and it is so stated in the designation.

(2) In this Act the expression " agricultural unit " means land which is occupied as a unit for agricultural purposes, including—

PART VII.
—cont.

- (a) any dwelling-house or other building occupied by the same person for the purpose of farming the land, and
- (b) any other land falling within the definition in this Act of the expression " agricultural land " which is in the occupation of the same person, being land as to which the Secretary of State is satisfied that having regard to the character and situation thereof and other relevant circumstances it ought in the interests of full and efficient production to be farmed in conjunction with the agricultural unit, and directs accordingly:

Provided that the Secretary of State shall not give a direction under this subsection as respects any land if it is for the time being in use for any purpose which appears to him to be substantial having regard to the use to which it might be put for agriculture.

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

" the Act of 1923 " means the Agricultural Holdings 13 & 14 Geo. 5.
(Scotland) Act, 1923; C. 10.

" agriculture " includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " shall be construed accordingly;

" allotment garden " means an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetables or fruit for consumption by himself or his family;

" fixed equipment " includes any building or structure affixed to land and any works on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or of produce thereof, or amenity, and, without prejudice to the

PART VII.
—cont.

foregoing generality, includes the following things, that is to say—

(a) all permanent buildings, including farm houses and farm cottages, necessary for the proper conduct of the holding;

(b) all permanent fences, including hedges, stone dykes, gate posts and gates;

(c) all ditches, open drains and tile drains, conduits and culverts, ponds, sluices, flood banks and main water courses;

(d) stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding;

(e) farm access or service roads, bridges and fords;

(f) water and sewerage systems;

(g) electrical installations including generating plant, fixed motors, wiring systems, switches and plug sockets;

(h) shelter belts;

and references to fixed equipment on land shall be construed accordingly.

“ functions ” includes powers and duties;

“ livestock ” includes any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land;

“ pasture ” includes meadow;

“ prescribed ” has the meaning assigned to it by the last foregoing section;

“ produce ” includes anything (whether live or dead) produced in the course of agriculture;

“ relevant circumstances,” in relation to an owner or an occupier, includes all circumstances affecting management or farming, other than the personal circumstances of the owner or the occupier.

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

(5) References in this Act to the farming of land include references to the carrying on in relation to the land of any agricultural activity; and in relation to any agricultural activity the person having the right to carry it on shall be deemed to be the occupier of the land.

(6) References in this Act to the use of land for agriculture include, in relation to land forming part of an agricultural unit, references to any use of the land in connection with the farming of the unit.

PART VII.
—cont.

87. The enactments specified in the Tenth Schedule to this Act are, save as provided in Part I of this Act, hereby repealed to the extent specified in the third column of that Schedule. Repeals.

88.—(1) This Act may be cited as the Agriculture (Scotland) Act, 1948. Short title,
commence-
ment and
extent.

(2) Save as otherwise expressly provided this Act shall come into operation on such date as His Majesty may by Order in Council appoint; and an Order under this subsection may appoint different dates in relation to different provisions of this Act.

(3) This Act shall extend to Scotland only.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

1. Laying down of permanent pasture.
2. Making of water-meadows or works of irrigation.
3. Making of gardens.
4. Planting of orchards or fruit bushes.
5. Warping or weiring of land.
6. Making of embankments and sluices against floods.
7. Making or planting of osier beds.
8. Haulage or other work done by the tenant in aid of the carrying out of any improvement made by the landlord for which the tenant is liable to pay increased rent.

PART II.

IMPROVEMENTS IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED.

9. Land drainage.
10. Construction of silos.
11. Making or improvement of farm access or service roads, bridges and fords.
12. Making or improvement of watercourses, ponds or wells, or of works for the application of water power for agricultural or domestic purposes or for the supply of water for such purposes.
13. Making or removal of permanent fences, including hedges, stone dykes and gates.

1ST SCH.
—*cont.*

14. Reclaiming of waste land.
15. Renewal of embankments and sluices against floods.
16. Provision of stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding.
17. Provision or laying on of electric light or power, including the provision of generating plant, fixed motors, wiring systems, switches and plug sockets.
18. Erection, alteration or enlargement of buildings, and making or improvement of permanent yards, loading banks and stocks.
19. Erection of hay or sheaf sheds, sheaf or grain drying racks, and implement sheds.
20. Provision of fixed threshing mills, barn machinery and fixed dairying plant.
21. Improvement of permanent pasture by cultivation and re-seeding.
22. Provision of means of sewage disposal.
23. Repairs to fixed equipment, being equipment reasonably required for the efficient farming of the holding, other than repairs which the tenant is under an obligation to carry out.

PART III.

IMPROVEMENTS IN RESPECT OF WHICH CONSENT OF, OR NOTICE TO, LANDLORD IS NOT REQUIRED.

24. Protecting fruit trees against animals.
25. Chalking of land.
26. Clay burning.
27. Claying of land.
28. Liming of land.
29. Marling of land.
30. Eradication of bracken, whins or broom growing on the holding at the commencement of the tenancy and, in the case of arable land, removal of tree roots, boulders, stones or other like obstacles to cultivation.
31. Application to land of purchased manure (including artificial manure).
32. Consumption on the holding of corn (whether produced on the holding or not) or of cake or other feeding stuff not produced on the holding by
 - (a) horses, cattle, sheep or pigs; or
 - (b) poultry folded on the land as part of a system of farming practised on the holding.
33. Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the termination of the tenancy, in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.

Section 5.

SECOND SCHEDULE.

APPLICATIONS FOR CERTIFICATES OF BAD HUSBANDRY.

1. An application to the Secretary of State for a certificate under paragraph (a) of subsection (1) of section five of this Act shall not be

made at any time while a warning notice is in force under this Act in relation to the tenant's farming of the holding to which the application relates.

2ND SCH.
—cont.

2. Any such application shall be made in the prescribed manner, and before it is made the landlord shall give notice in writing to the tenant of the proposed application.

3. Where such an application is made the Secretary of State shall, after affording to the landlord and to the tenant an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, either—

- (a) give notice in writing to the landlord and to the tenant that he proposes to grant or refuse the certificate, or
- (b) serve a warning notice under section twenty-seven of this Act on the tenant in relation to the farming of the holding to which the application relates ;

and if before the expiration of the prescribed period from the making of the application the Secretary of State has not given or served one or other of such notices as aforesaid, he shall be deemed to have given notice in writing to the landlord and to the tenant that he proposes to refuse the certificate.

4. Within one month of notice of a proposal being given or being deemed to have been given under the last foregoing paragraph the landlord may require that the Secretary of State's proposal to refuse a certificate shall be referred to the Land Court or the tenant may require that the Secretary of State's proposal to grant a certificate shall be so referred ; and the provisions in that behalf of Part VI of this Act shall apply accordingly.

5. Where a holding forms part only of an agricultural unit, an opportunity of making representations shall be afforded under paragraph 3 of this Schedule to every person who for any of the purposes of Part II of this Act is the owner of land comprised in the unit, and sub-paragraph (b) of that paragraph shall have effect with the substitution for the reference to the holding of a reference to the unit.

THIRD SCHEDULE.

Sections 12,
30, 35.

PROVISIONS WHERE PERMANENT PASTURE DIRECTED TO BE PLOUGHED UP OR OTHER CULTIVATIONS TO BE CARRIED OUT.

1. Where the Secretary of State gives to a person a direction under section twenty-nine or thirty-five of this Act requiring the ploughing-up of any land consisting of permanent pasture, compliance with the direction shall, notwithstanding the provisions of any lease or instrument affecting the land or any custom, not render the said person liable thereby to sow it again at his own expense, or to pay any sum by way of increased rent, damages or penalty, or to suffer any forfeiture by reason of the ploughing-up or of the failure to sow it again ; and for the purposes of any provision of any such lease or instrument as aforesaid, any custom or any provision of Part I of this Act the land shall thereafter be deemed to be arable land and to have been arable land at all material times.

3RD SCH.
—cont.

2. Where in the case of an occupier who is a tenant the Secretary of State gives such a direction as aforesaid, or a direction under section twelve of this Act reducing the area of land which under the lease is to be maintained as permanent pasture, he may, after affording to the landlord and to the tenant an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, order that the lease shall have effect as if it provided that on quitting the holding on the termination of the tenancy the tenant should leave—

- (a) as permanent pasture, or
- (b) as temporary pasture sown with a seeds mixture of such kind as may be specified in the order,

such area of land (in addition to the land required by the lease, as modified by the direction, to be maintained as permanent pasture) as may be so specified, so however that the area required to be left as aforesaid shall not exceed the area by which the land required by the lease to be maintained as permanent pasture has been reduced by virtue of the direction.

3.—(1) Notwithstanding anything in the provisions of Part I of this Act or any custom or agreement—

- (a) no compensation shall be payable to the tenant in respect of anything done in pursuance of an order under the last foregoing paragraph ;
- (b) in assessing compensation to an outgoing tenant of a holding (as defined in the Act of 1923) where land has been ploughed up in pursuance of any such direction as aforesaid, the value per acre of any tenant's pasture comprised in the holding shall be taken not to exceed the average value per acre of the whole of the tenant's pasture comprised in the holding on the termination of the tenancy.

(2) In this paragraph the expression "tenant's pasture" means pasture laid down at the expense of the tenant or paid for by the tenant on entering the holding.

4. In relation to a direction under section twenty-nine or thirty-five of this Act, paragraph 1 of this Schedule shall have effect as if references to the ploughing-up of permanent pasture included references to the carrying out, on land which apart from the direction the occupier is under an obligation to cultivate in a particular way, of any other act of cultivation specified in the direction, and references to the sowing of land again and to arable land shall be construed accordingly.

5. Where the ploughing-up of permanent pasture or the carrying out of any other act of cultivation is reasonably necessary in consequence of the giving of a direction, this Schedule shall apply as if the ploughing-up or other act of cultivation were required by the direction and specified therein ; and subsection (4) of section thirty and subsection (5) of section thirty-five of this Act shall be construed accordingly.

FOURTH SCHEDULE.

Section 14.

**MATTERS FOR WHICH PROVISION IS TO BE MADE IN WRITTEN
LEASES.**

1. The names of the parties.
2. Particulars of the holding with sufficient description, by reference to a map or plan, of the fields and other parcels of land comprised therein to identify the extent of the holding.
3. The term or terms for which the holding or different parts thereof is or are agreed to be let.
4. The rent and the dates on which it is payable.
5. An undertaking by the landlord in the event of damage by fire to any building comprised in the holding to reinstate or replace the building if its reinstatement or replacement is required for the fulfilment of his responsibilities to manage the holding in accordance with the rules of good estate management, and (except where the interest of the landlord is held for the purposes of a government department or a person representing His Majesty under section forty of the Act of 1923 is deemed to be the landlord, or where the landlord has made provision approved by the Secretary of State for defraying the cost of any such reinstatement or replacement as aforesaid) an undertaking by the landlord to insure to their full value all such buildings against damage by fire.
6. An undertaking by the tenant, in the event of the destruction by fire of harvested crops grown on the holding for consumption thereon, to return to the holding the full equivalent manurial value of the crops destroyed, in so far as the return thereof is required for the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry, and (except where the interest of the tenant is held for the purposes of a government department or where the tenant has made provision approved by the Secretary of State in lieu of such insurance) an undertaking by the tenant to insure to their full value all dead stock on the holding and all such harvested crops as aforesaid against damage by fire.

FIFTH SCHEDULE.

Section 26.

RULES OF GOOD ESTATE MANAGEMENT.

1. For the purposes of this Act, the owner of agricultural land shall be deemed to fulfil his responsibilities to manage it in accordance with the rules of good estate management in so far as his management of the land and (so far as it affects the management of that land) of other land managed by him is such as to be reasonably adequate, having regard to the character and situation of the land and other relevant circumstances, to enable an occupier of the land reasonably skilled in husbandry to maintain efficient production as respects both the kind of produce and the quality and quantity thereof.

5TH SCH.
—cont.

2. In determining whether the management of land is such as aforesaid regard shall be had, but without prejudice to the generality of the provisions of the last foregoing paragraph, to the extent to which the owner is making regular muirburn in the interests of sheep stock, exercising systematic control of vermin on land not in the control of a tenant, and undertaking the eradication of bracken, whins and broom so far as is reasonably practicable, and to the extent to which the owner is fulfilling his responsibilities in relation to the provision, improvement, replacement and renewal of the fixed equipment on the land in so far as is necessary to enable an occupier reasonably skilled in husbandry to maintain efficient production as aforesaid.

Section 26.

SIXTH SCHEDULE.

RULES OF GOOD HUSBANDRY

1. For the purposes of this Act, the occupier of an agricultural unit shall be deemed to fulfil his responsibilities to farm it in accordance with the rules of good husbandry in so far as the extent to which and the manner in which the unit is being farmed (as respects both the kind of operations carried out and the way in which they are carried out) are such that, having regard to the character and situation of the unit, the standard of management thereof by the owner and other relevant circumstances, the occupier is maintaining a reasonable standard of efficient production, as respects both the kind of produce and the quality and quantity thereof, while keeping the unit in a condition to enable such a standard to be maintained in the future.

2. In determining whether the manner in which a unit is being farmed is such as aforesaid regard shall be had, but without prejudice to the generality of the provisions of the last foregoing paragraph, to the following:—

- (a) the maintenance of permanent grassland (whether meadow or pasture) properly mown or grazed and in a good state of cultivation and fertility;
- (b) the handling or cropping of the arable land, including the treatment of temporary grass, so as to maintain it clean and in a good state of cultivation and fertility;
- (c) where the system of farming practised requires the keeping of livestock, the proper stocking of the holding;
- (d) the maintenance of an efficient standard of management of livestock;
- (e) as regards hill sheep farming in particular:—
 - (i) the maintenance of a sheep stock of a suitable breed and type in regular ages (so far as is reasonably possible) and the keeping and management thereof in accordance with the recognised practices of hill sheep farming;
 - (ii) the use of lug, horn or other stock marks for the purpose of determining ownership of stock sheep;
 - (iii) the regular selection and retention of the best female stock for breeding;

- (iv) the regular selection and use of tups possessing the qualities most suitable and desirable for the flock ;
- (v) the extent to which regular muirburn is made ;
- (f) the extent to which the necessary steps are being taken—
- (i) to secure and maintain the freedom of crops and livestock from disease and from infestation by insects and other pests ;
- (ii) to exercise systematic control of vermin and of bracken, whins, broom and injurious weeds ;
- (iii) to protect and preserve crops harvested or in course of being harvested ;
- (iv) to carry out necessary work of maintenance and repair of the fixed and other equipment.

6TH SCH.
—cont.

SEVENTH SCHEDULE.

Section 79.

PARISHES DEEMED TO BE CONGESTED DISTRICTS.

<i>Parish.</i>					<i>County.</i>
Campbeltown	...	...	...	...	Argyll.
Dunoon and Kilmun	...	...	...	...	"
Gigha and Cara	...	...	...	...	"
Inverchaolain	...	...	...	...	"
Killean and Kilchenzie	...	...	...	...	"
Kilmartin	...	...	...	...	"
Kilmodan	...	...	...	...	"
Southend	...	...	...	...	"
Croy and Dalcross (part of)	...	...	...	...	Inverness.
Cromarty	...	...	...	...	Ross and Cromarty.
Rosemarkie	...	...	...	...	" "

EIGHTH SCHEDULE.

Section 68.

PART I.

AGRICULTURAL EXECUTIVE COMMITTEES AND SUB-COMMITTEES.

1.—(1) An Agricultural Executive Committee shall consist of not more than twelve members appointed by the Secretary of State after consultation with persons appearing to him to represent the interests of farmers, of workers employed in agriculture, and of owners of agricultural land.

(2) A majority of the members of each Agricultural Executive Committee shall consist of persons having a practical knowledge of agriculture and drawn from the industry.

8TH SCH.
—cont.

2.—(1) The Secretary of State shall designate a member of each Agricultural Executive Committee to act as chairman of the Committee.

(2) The term of office of a chairman of an Agricultural Executive Committee shall be at the pleasure of the Secretary of State.

(3) The Secretary of State shall appoint one or more members of the Committee to act as vice chairman in the absence of the chairman.

3.—(1) Subject to the provisions of this paragraph, the term of office of any member (except the chairman) of an Agricultural Executive Committee shall be three years, but a member who ceases to hold office shall, subject to the provisions of this Schedule, be eligible for reappointment.

(2) The following provisions shall regulate the tenure of office of the first members of an Agricultural Executive Committee other than the chairman :—

(a) at the end of the first year from the establishment of the Committee one-third (or, if one-third is not an integral number, the nearest integral number not exceeding one-third) of the said members, to be chosen by lot, shall retire from the Committee ;

(b) at the end of two years from the establishment of the Committee one-half (or, if one-half is not an integral number, the nearest integral number not exceeding one-half) of the remaining first members of the Committee, to be chosen by lot, shall retire from the Committee.

(3) Any member of the Committee may resign his membership by notice in writing to the Secretary of State.

(4) The Secretary of State may revoke the appointment of a member of an Agricultural Executive Committee if in his view such revocation is desirable.

(5) Where the Secretary of State appoints a person in the place of a member whose office is vacated otherwise than in accordance with sub-paragraph (1) or (2) of this paragraph, the said sub-paragraphs (1) and (2) shall apply to the person so appointed as if he had become a member of the Committee at the same time as the member in whose place he was appointed, or, where two or more persons are appointed as aforesaid in succession, as if he had become a member of the Committee at the same time as the first member whose office was vacated as aforesaid.

4. An Agricultural Executive Committee may add to any sub-committee established by them persons not being members of the Committee, who shall continue as members of the sub-committee for such period as the Committee may determine.

5. An Agricultural Executive Committee or sub-committee shall have power to fix and regulate their own procedure, including power to determine the number of members necessary to form a quorum.

6. A member of the Committee shall not vote on any question which relates to land of which he is the owner or occupier, or the agent or

factor of the owner or occupier, or enter into any contract with the Committee unless the contract has been approved by the Secretary of State :

8TH SCH.
—cont.

Provided that this paragraph shall not apply in relation to a contract entitling him to participate, on terms not more favourable than are available to similar members of the farming community in the area, in any service (including the supply of labour or goods) provided by the Committee in the interests of the farming community in the area.

Disqualification for appointment.

7. A person shall be disqualified for being appointed or being a member of an Agricultural Executive Committee or sub-committee so long as he is a member of the Commons House of Parliament.

Validity of acts.

8.—(1) An Agricultural Executive Committee or sub-committee shall have power to act notwithstanding any vacancy among their members.

(2) All acts done at any meeting of any such body shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment or any disqualification of a person purporting to be a member thereof, be as valid as if that defect had not existed.

(3) Nothing in sub-paragraph (1) of this paragraph shall affect any requirement as to the number of members necessary to constitute a meeting of any such body as aforesaid.

Officers and Servants.

9. The Secretary of State shall attach to the Agricultural Executive Committees and sub-committees such of his officers and servants as he may with the approval of the Treasury determine to be required for providing the committees with the necessary officers and servants.

Allowances and Expenses.

10.—(1) The Secretary of State may pay to the members of an Agricultural Executive Committee or sub-committee such allowances as he may with the approval of the Treasury determine.

(2) The expenses of an Agricultural Executive Committee or sub-committee shall be defrayed by the Secretary of State.

Proof of Instruments.

11. Any document purporting to be a document duly executed or issued on behalf of an Agricultural Executive Committee or sub-committee thereof shall, until the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

Provisions as to holdings situated partly in one area and partly in another.

12. Where any agricultural holding lies partly in the area of one Agricultural Executive Committee and partly in the area of another, the Secretary of State may direct that for the purposes of anything required or authorised to be done by, to or before such a Committee in relation to that holding the whole of the holding shall be deemed to be comprised in the area comprising such part of the holding as may be specified in the direction.

8TH SCH.
—cont.
Section 73.

PART II.

AGRICULTURAL ADVISORY COMMITTEES.

1. An Agricultural Advisory Committee shall consist of not more than two members appointed by the Secretary of State and of twelve other members (hereinafter referred to as "nominated members") nominated in accordance with the provisions of this Schedule, and appointed by the Secretary of State.

2. The nominated members shall be persons nominated—

- (a) in the case of two members, by the appropriate agricultural college,
- (b) in the case of two members, by the county council of the county in which the Committee district is situated, or where that district is situated in two or more counties by the county councils of those counties acting jointly,
- (c) in the case of two members, by such organisation as appears to the Secretary of State to represent the interests of farmers,
- (d) in the case of two members, by such organisation as appears to him to represent the interests of workers employed in agriculture,
- (e) in the case of two members, by such organisation as appears to him to represent the interests of owners of agricultural land, and
- (f) in the case of two members, by such other organisation or organisations interested in the welfare or development of agriculture as the Secretary of State may think fit to invite to make nominations.

3. If in relation to any appointment of a nominated member it appears to the Secretary of State that the college, council or organisation concerned have failed, within a reasonable time after he has called upon them by notice in writing so to do, to nominate a person for the appointment, the Secretary of State may, notwithstanding anything in the foregoing provisions of this Part of this Schedule, appoint as the nominated member in question such person as he thinks fit.

4. A Committee shall be deemed to be duly constituted and shall have power to act notwithstanding any vacancy among the members thereof.

5. Each Committee shall appoint a Chairman from among their members, and if they fail to do so within a period of one month from the date of their constitution, the appointment may be made by the Secretary of State.

6. The term of office of any member of a Committee shall be three years, but a member who ceases to hold office shall, subject to the provisions of this Part of this Schedule as to nomination, be eligible for re-appointment.

7. Any member of a Committee may resign his membership by notice in writing to the Secretary of State.

8. A Committee shall have power to regulate their own procedure, including power to determine the number of persons necessary to form a quorum.

9. The director of education and the medical officer of health of the county in which a Committee district is situated shall be entitled to attend meetings of the Committee in the capacity of assessors.

10. The Secretary of State may, with the approval of the Treasury, make such arrangements as appear to him expedient, after consultation with the appropriate agricultural college, for placing at the disposal of a Committee any secretarial and technical assistance which he may consider necessary or desirable.

11. The expenses up to such amount as may be approved by the Secretary of State incurred by a Committee in carrying out their duties shall be defrayed by the Secretary of State.

12. In this Schedule the expression "appropriate agricultural college" in relation to any Agricultural Advisory Committee means the agricultural college responsible for agricultural education in that part of Scotland in which the district of the Committee is situated.

NINTH SCHEDULE.

Section 24.

MINOR AND CONSEQUENTIAL AMENDMENTS.

The Agricultural Holdings (Scotland) Act, 1923.

1. In section one (which relates to the right of the tenant to compensation for improvements)—

- (a) in paragraph (a) of subsection (2) after the word "which" there shall be inserted the words "under an agreement in writing" and the words "whether expressly stated in the lease to be so given or allowed or not" shall be omitted;
- (b) paragraph (b) of subsection (2) shall cease to have effect;
- (c) in subsection (3) for the words "custom, agreement or otherwise" there shall be substituted the words "an agreement in writing".

2. In section three (which relates to the giving of notice to the landlord as to improvements comprised in Part II of the First Schedule)—

- (a) in subsection (1) the words "more than six nor" shall be omitted and for the words "may agree" there shall be substituted the words "may enter into an agreement in writing";
- (b) subsection (3) shall cease to have effect;
- (c) in subsection (4) after the word "agree," there shall be inserted the words "in writing";
- (d) after subsection (4) there shall be added the following subsections—

" (5) Subject to the provisions of the next following subsection, compensation under this Act shall not be payable in respect of an improvement comprised in Part II

9TH SCH.
—cont.

of the First Schedule to this Act if, within one month after receiving notice under subsection (1) of this section from the tenant of his intention to execute the improvement, the landlord gives notice in writing to the tenant that he objects to the execution of the improvement or to the manner in which the tenant proposes to do the intended work.

(6) Where notice of objection has been given as aforesaid, the tenant may, after giving notice in writing to the landlord of his intention so to do, apply to the Board for approval of the execution of the improvement, and on any such application—

- (a) the Board may, after affording to the tenant and to the landlord an opportunity of making representations to the Board, whether in writing or on being heard by a person appointed by the Board, approve the carrying out of the improvement either unconditionally or upon such terms, whether as to reduction of the compensation which would be payable if the Board approved unconditionally or as to other matters, as appear to the Board to be just, or may withhold their approval, and in either case forthwith after coming to a decision on the application shall give notice in writing of their decision to the landlord and to the tenant ;
- (b) if the Board grant their approval, the landlord may, within one month after receiving notice of the Board's decision, serve notice in writing on the tenant undertaking himself to execute the improvement ;
- (c) where the Board grant their approval, then if either no notice is served by the landlord under the last foregoing paragraph, or such a notice is served but on an application made by the tenant in that behalf the Board, after affording to the tenant and to the landlord such an opportunity as aforesaid, determine that the landlord has failed to execute the improvement within a reasonable time, the tenant may execute the improvement and shall be entitled to compensation under this Act in respect thereof as if notice of objection had not been given by the landlord, and any terms subject to which the approval was given shall have effect as if they were contained in an agreement in writing between the landlord and the tenant."

3. In section five (which makes further provision as to improvements)—

- (a) in subsection (1) for the word " desires," there shall be substituted the words " intimates to the landlord in writing his

desire"; for the words "after hearing the landlord or his representative" there shall be substituted the words "after affording to the landlord and to the tenant an opportunity to make representations to the Board, whether in writing or on being heard by a person appointed by the Board"; the proviso shall cease to have effect; and in paragraph (c) for the words "settled by the Board" there shall be substituted the words "determined by arbitration";

- (b) subsections (3) and (4) shall cease to have effect ;
 (c) after subsection (5) there shall be added the following subsection—

"(6) Nothing in Part I of the Agriculture (Scotland) Act, 1948, shall prevent the landlord and the tenant of a holding who have agreed that the holding shall be let or treated as a market garden from substituting, by agreement in writing, the provisions as to compensation set out in paragraphs (a) and (b) of subsection (1) of this section for the provisions as to compensation which would otherwise be applicable to the holding."

4. In section nine (which relates to compensation for the continuous adoption of a special standard or system of farming), in subsection (1) the words "(if any)" shall be omitted; after the words "required by the lease" there shall be inserted the words "or in so far as no system of farming is so required, than the system of farming normally practised on comparable holdings in the district"; in paragraph (a) of the proviso, after the words "record so made" there shall be inserted the words "or, where more than one such record has been made during the tenancy, before the date of the first such record"; and in paragraph (b) of the proviso, after the words "the tenant has" there shall be inserted the words "not later than one month".

5. In section eleven (which relates to compensation for damage by game)—

- (a) subsection (3) shall cease to have effect ;
 (b) after subsection (4) there shall be inserted the following subsection—

"(4A) Any question arising under the last foregoing subsection shall be determined by arbitration under this Act in like manner as questions arising on a claim under this section by a tenant."

6. In section twenty-one (which relates to the power of a landlord on paying compensation to obtain a charge on the holding) for subsections (1) to (4) there shall be substituted the following subsections—

"(1) Where after the commencement of Part I of the Agriculture (Scotland) Act, 1948, a landlord, not being the absolute owner of a holding, has paid to the tenant of the holding the amount due to him under this Act, or under custom or agreement or otherwise, in respect of compensation for an improvement comprised in the First Schedule hereto, or in respect of compensation for disturbance, or has himself defrayed the cost of an improvement proposed to be executed by the tenant, the Board may,

9TH SCH.
—cont.

9 & 10 Geo. 6.
c. 42.

on the application of the landlord and after giving not less than fourteen days notice to the absolute owner of the holding, make in favour of the landlord a charging order charging and burdening the holding with an annuity to repay the amount of the compensation or of the cost of the improvement, as the case may be, together with the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines; and the provisions of subsections (2) and (4) and of subsections (6) to (10) of section fifty-five of the Water (Scotland) Act, 1946, shall with the following and any other necessary modifications apply to any such charging order—

- (a) for any reference to the local authority there shall be substituted a reference to the Board;
- (b) for any reference to the period of thirty years there shall be substituted in the case of a charging order made in respect of compensation for, or of the cost of, an improvement a reference to the period within which the improvement will, in the opinion of the Board, have become exhausted;
- (c) for references to Part III of the said Act of 1946 there shall be substituted references to the Agricultural Holdings (Scotland) Acts, 1923 to 1948.

(2) An annuity constituted a charge by a charging order recorded in the appropriate Register of Sasines shall be a charge on the holding specified in the order and shall rank after all prior charges heritably secured thereon.

(3) The creation of a charge on a holding under this section shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding is held."

7. Section twenty-two (which relates to the incidence of charges) shall cease to have effect.

8. In section twenty-three (which relates to the power of land improvement companies to advance money) for the words from "an advance of money" to the end of the section there shall be substituted the words "an advance of money upon a charging order duly made and recorded under this Act, on such terms and conditions as may be agreed upon between the company and the person entitled to the order".

9. Section twenty-four (which relates to certificates as to charges) shall cease to have effect.

10. In section twenty-six, in subsection (2) (which subsection relates to the renewal of a lease by tacit relocation) for the word "renewed," in both places where it occurs, there shall be substituted the words "continued in force."

11. In section twenty-eight (which relates to the right of a tenant of a holding to bequeath his lease)—

- (a) for any reference to the sheriff there shall be substituted a reference to the Land Court, and for any reference to a petition praying for decree there shall be substituted a reference to an application for an order;
- (b) paragraph (f) shall cease to have effect.

12. Section twenty-nine (which provides that fixtures and buildings affixed to or erected on a holding by the tenant shall, subject to certain exceptions, be his property and removable by him on the termination of the tenancy) shall be amended in accordance with the following provisions of this paragraph, that is to say—

- (a) the right of the tenant to remove any fixture or building shall not unless otherwise agreed be exercisable after the expiration of six months from the termination of the tenancy;
- (b) for paragraph (iv) of the proviso to subsection (1) (which provides for notice to the landlord of the tenant's intention to remove a fixture or building) there shall be substituted the following paragraph :—
 - “ (iv) the tenant shall not remove any fixture or building without giving at least one month's previous notice in writing to the landlord of his intention to remove it, and any such notice shall be given at least one month before the termination of the tenancy ”;
- (c) for subsection (2) there shall be substituted the following subsection :—
 - “ (2) Nothing in this section shall confer on a tenant or former tenant, as respects any period after his right of removal has ceased to be exercisable, any property in a fixture or building not removed by him.”

13. In section thirty (which enables a landlord to give notice to quit part of a holding where the notice is given for certain purposes and states that it is so given)—

- (a) in paragraph (iv) (which enables notice to quit part of a holding to be given for the purpose of the provision of small holdings under the Small Landholders (Scotland) Acts, 1886 to 1931) the reference to small holdings as so defined shall include a reference to such holdings as are mentioned in section sixty-four of this Act;
- (b) for the words from “ and the notice states ” to “ any such use ” there shall be substituted the words “ or for the purpose of adjusting the boundaries between agricultural units or amalgamating agricultural units or parts thereof, and the notice states that it is given with a view to any such use as aforesaid or for the said purpose, as the case may be ”;
- (c) in paragraph (c) for the words “ as in case of compensation ” there shall be substituted the words “ by arbitration ”;
- (d) in the proviso after the words “ after service of the notice to quit ” there shall be inserted the words “ or, in a case where the operation of the notice to quit depends on any proceedings under section seven of the Agriculture (Scotland) Act, 1948, within twenty-eight days after the time at which it is determined that the notice to quit has effect,” and for the words “ the expiration of the then current year of tenancy ” there shall be substituted the words “ the same time as the original notice ”.

9TH SCH.
—cont.

14. In section thirty-three (which extends the meaning of the expression "holding" so as to include certain other lands)—

- (a) in subsection (1) for the words "Where the land" there shall be substituted the words "Where any land";
- (b) subsection (2) shall cease to have effect.

15. In section thirty-four (which provides that the landlord of a holding shall not be entitled to recover, in respect of a breach or non-fulfilment of a term or condition in the lease, any sum in excess of the damage actually suffered by him) the proviso shall cease to have effect.

16. Section thirty-five (which confers on the tenant of a holding freedom of cropping and of disposal of the produce of his holding notwithstanding any custom or agreement) shall be amended in accordance with the provisions of this paragraph, that is to say—

- (a) in subsection (1) references to the produce of the holding shall not include references to manure produced on the holding;
- (b) in subsection (2) for the words from "without prejudice" to the end of the subsection there shall be substituted the words "have the following remedies, but no other, that is to say—

(a) should the case so require, he shall be entitled to obtain an interdict restraining the exercise of the tenant's rights under this section in that manner;

(b) in any case, on the tenant quitting the holding on the termination of the tenancy, the landlord shall be entitled to recover damages for any injury to or deterioration of the holding attributable to the exercise by the tenant of his rights under this section,

and section forty-six of this Act shall have effect subject to the provisions of this section."

- (c) for the purposes of any proceedings for an interdict brought under the said subsection (2) the question whether a tenant is exercising, or has exercised, his rights under the said section thirty-five in such a manner as to injure or deteriorate his holding, or to be likely to injure or deteriorate his holding, shall be determined by the Secretary of State after affording to the landlord and to the tenant an opportunity to make representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State; and a certificate of the Secretary of State as to his determination of any such question as aforesaid shall for the purposes of any proceedings (including an arbitration) brought under the said section thirty-five be conclusive proof of the facts stated in the certificate;
- (d) in subsection (4) any reference to the terms of any lease shall be construed as a reference to the terms of that lease as modified in pursuance of section twelve of this Act.

17. In section thirty-seven (which relates to the making of a record of a holding)—

- (a) for the words " to be appointed in default of agreement by the Board " there shall be substituted the words " to be nominated by the Board " ;
- (b) at the end of the section there shall be added the following subsections—

" (2) Subject to the provisions of section thirteen of the Agriculture (Scotland) Act, 1948, a record may, if the landlord or the tenant so requires, be made under this section relating to a part only of the holding or to the fixed equipment only.

(3) Any record made under this section shall show any consideration or allowances which have been made by the landlord to the tenant or by the tenant to the landlord.

(4) A record made under this section shall be in such form as may be prescribed.

(5) Any question or difference between the landlord and the tenant arising out of the making of a record under this section shall, on the application of the landlord or the tenant, as the case may be, be referred to the Land Court, and the Land Court shall determine such question or difference accordingly.

(6) The remuneration of the person nominated by the Board to make a record under this section shall be such amount as the Board may fix, and any other expenses of and incidental to the making of the record shall be subject to taxation by the auditor of the sheriff court, but that taxation shall be subject to review by the sheriff.

(7) The remuneration of the person nominated by the Board to make a record under this section shall be recoverable by that person from either the landlord or the tenant, but any amount paid by either of those parties in respect of that remuneration, or of any other expenses of and incidental to the making of the record, in excess of the share payable by him as aforesaid of the cost of making the record shall be recoverable from the other party."

18. In section thirty-nine (which makes provision for the exercise by limited owners of certain powers) the words " in relation to improvements in respect of which compensation is payable " shall be omitted.

19. In section forty (which provides for the application of the Act of 1923 to Crown lands), after subsection (2) there shall be inserted the following subsection :—

" (3) Section fifteen of the Crown Lands Act, 1927 (which enables the Commissioners of Crown Lands to pay out of capital the cost of carrying out certain improvements and other works) shall apply to any compensation payable by them under this Act in respect of an improvement comprised in Part I or Part II of the First Schedule to this Act as it applies to the cost specified in the said section fifteen."

9TH SCH.
—cont.

20. Section forty-one (which relates to the application of the Act to glebe and charity land) shall cease to have effect.

21. Section forty-four (which empowers the Court of Session to prescribe a scale of expenses for sheriff court proceedings under the Act of 1923) shall cease to have effect.

22. In section forty-nine (which relates to the interpretation of the Act of 1923)—

(a) in subsection (1) for the definitions of “ holding ”, “ manuring ” and “ rules of good husbandry ” there shall be substituted respectively the following definitions—

“ ‘ holding ’ means the aggregate of the agricultural land, as defined in Part VII of the Agriculture (Scotland) Act, 1948, comprised in a lease, not being a lease under which the said land is let to the tenant during his continuance in any office, appointment or employment held under the landlord ; ”

“ ‘ manuring ’ means any of the improvements referred to in paragraphs 31 and 32 of Part III of the First Schedule to this Act ; ”

“ ‘ rules of good husbandry ’ means the provisions set forth in the Sixth Schedule to the Agriculture (Scotland) Act, 1948 ” ;

(b) in subsection (1) the following definitions shall be inserted—

“ ‘ building ’ includes any part of a building ; ”

“ ‘ Whitsunday ’ and ‘ Martinmas ’ in relation to any lease entered into after the commencement of Part I of the Agriculture (Scotland) Act, 1948, mean respectively the twenty-eighth day of May and the twenty-eighth day of November ” ;

(c) in subsection (1), in the paragraph relating to the interpretation of the expression “ landlord,” or “ tenant,” after the word “ assignees,” there shall be inserted the word “ heir-at-law ” ;

(d) in subsection (4) after the word “ landlord ”, in both places where it occurs, there shall be inserted the words “ or the tenant ”, and the words “ duly authorised in that behalf ” shall be omitted.

23. In the Second Schedule (which relates to arbitration proceedings)—

(a) after paragraph 6 there shall be inserted the following paragraph—

“ *Particulars of claim.*

6A. Each of the parties to the arbitration shall within fourteen days from the appointment of the arbiter deliver to him a statement of that party’s case with all necessary particulars ; and—

(a) no amendment or addition to the statement or particulars delivered shall be allowed after the expiration of the said fourteen days except with the consent of the arbiter ;

(b) a party to the arbitration shall be confined at the hearing to the matters alleged in the statement and particulars so delivered and any amendment thereof or addition thereto duly made” ;

9TH SCH.
—cont.

(b) in paragraph 9 for the words “ in the form of a special case for the opinion of the sheriff ” there shall be substituted the words “ a case for the opinion of the sheriff on ”.

24. In the Third Schedule (which specifies improvements which are subject to special provisions in the case of market gardens), in paragraph (5), for the words “ Erection or enlargement of buildings ” there shall be substituted the words “ Erection, alteration or enlargement of buildings ”.

The Local Government (Scotland) Act, 1929.

25. In section forty-eight (which requires the relief given by the Act to occupiers of agricultural land to be disregarded for certain purposes) for the words “ for the purposes of section twelve of the Agricultural Holdings (Scotland) Act, 1923,” there shall be substituted the words “ under section eleven of the Agriculture (Scotland) Act, 1948.”

The Agricultural Marketing Act, 1931.

26. In paragraph (6) of section nineteen (which requires any benefit accruing to the occupiers of certain agricultural lands from the operation of the Act to be disregarded for certain purposes) for the words “ for the purposes of section twelve of the Agricultural Holdings (Scotland) Act, 1923,” there shall be substituted the words “ under section eleven of the Agriculture (Scotland) Act, 1948.”

The Small Landholders and Agricultural Holdings (Scotland) Act, 1931.

27. In section twenty-nine for the words “ paragraph (29) ” there shall be substituted the words “ paragraph 33 ”.

28. In section thirty-four for the words “ this Act ” there shall be substituted the words “ this Part of this Act or Part I of the Agriculture (Scotland) Act, 1948 ”.

29. In section thirty-five—

(a) in subsection (1) for the words “ of this Act ” there shall be substituted the words “ of this Part of this Act or of Part I of the Agriculture (Scotland) Act, 1948 ” and the words from “ in the case of a holding ” to “ fifty pounds ” and the words “ and in the case of any other holding an arbiter ” shall be omitted ;

(b) in subsection (2) for the words “ this Act ” there shall be substituted the words “ this Part of this Act or by Part I of the Agriculture (Scotland) Act, 1948,” the words “ in pursuance of the foregoing subsection or ” shall be omitted, and for the words “ the sheriff ” there shall be substituted the words “ the Land Court ” ;

(c) after the words “ the landlord ”, in both places where they occur in the section, there shall be inserted the words “ or the tenant ”.

9TH SCH.
—cont.

The Hill Farming Act, 1946.

30. Section nine of the Hill Farming Act, 1946 (which modifies the Act of 1923 in relation to schemes under the said Act of 1946) shall in its application to Scotland be amended as follows:—

(a) in subsection (2) at the end of paragraph (b) there shall be added the words “ and the landlord shall be deemed to have received the notice and to have raised no objection to the making of the improvement or to the manner in which the tenant proposes to do the intended work ” ;

(b) for subsection (3) there shall be substituted the following subsection:—

“ (3) If on the ground of work being badly done the appropriate Minister withholds or reduces the improvement grant in respect of an improvement, he may direct that any right conferred by subsection (4) of section eleven of the Agriculture (Scotland) Act, 1948, to have the rent of a holding increased shall not be exercisable in respect of the improvement, or shall be exercisable only to such extent as may be specified in the direction, and any such direction given after that right has been exercised shall be retrospective and any excess rent paid shall be repaid accordingly ” :

Provided that nothing in this sub-paragraph shall affect any right to recover money under the said subsection (3) accrued before the commencement of Part I of this Act ;

(c) subsections (4) to (6) of the said section nine shall cease to have effect.

Section 87.

TENTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
43 & 44 Vict. c. 47.	The Ground Game Act, 1880.	Section six.
6 Edw. 7. c. 21.	The Ground Game (Amendment) Act, 1906.	The whole Act.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act, 1911.	In section five, the words from the beginning of the section to “ commencement of this Act, and ”.

10TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
13 & 14 Geo. 5. c. 10.	The Agricultural Holdings (Scotland) Act, 1923.	In section one, in subsection (2), in paragraph (a), the words from "whether expressly stated" to "allowed or not", and paragraph (b); in section three, subsection (3); section four; in section five, the proviso to subsection (1) and subsections (3) and (4); in section six, subsection (1); section seven; section ten; in section eleven, subsection (3); sections twelve to fourteen; in section fifteen, subsection (2); in section seventeen, subsection (4); in section nineteen, subsection (2); section twenty-two; section twenty-four; in section twenty-five, the words from "In any case" to "ceased and determined"; section twenty-seven; in section twenty-eight, paragraph (f); in section thirty-three, subsection (2); in section thirty-four, the proviso; in section thirty-nine, the words from "in relation to improvements" to "payable"; section forty-one; section forty-four; section forty-five; and in subsection (4) of section forty-nine, the words "duly authorised in that behalf".
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	Subsection (3) of section fifty-two and the Sixth Schedule in so far as they relate to the payment of moneys into the Agriculture (Scotland) Fund.
21 & 22 Geo. 5. c. 41.	The Agricultural Land (Utilisation) Act, 1931.	Sections one to four; in section twenty-four, paragraphs (b), (d) and (e); and the First Schedule.
21 & 22 Geo. 5. c. 44.	The Small Landholders and Agricultural Holdings (Scotland) Act, 1931.	Section twenty-seven; in section twenty-eight, in subsection (1), the words "of six months for three months and", and subsection (2); sections thirty and thirty-one and in section thirty-five, in subsection (1), the words from "in the case of a holding"

10TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
21 & 22 Geo. 5. c. 44—cont.	The Small Landholders and Agricultural Holdings (Scotland) Act, 1931—cont.	to " fifty pounds " and the words " and in the case of any other holding an arbiter ", and in subsection (2), the words " in pursuance of the foregoing subsection or ".
22 & 23 Geo. 5. c. 12.	The Destructive Imported Animals Act, 1932.	Section four.
3 & 4 Geo. 6. c. 14.	The Agriculture (Miscellaneous War Provisions) Act, 1940.	In section twenty-nine, in subsection (1), the words from " on consideration " to " any area in Scotland, " the words " in the area of that Committee, " and the words " in the area of the Committee " ; and in subsection (10), the words from " and the expression " to the end of the subsection.
6 & 7 Geo. 6. c. 16.	The Agriculture (Miscellaneous Provisions) Act, 1943.	Section nine, and in section nineteen, paragraph (b).
6 & 7 Geo. 6. c. 22.	The Housing (Agricultural Population) (Scotland) Act, 1943.	In section one, subsection (2).
9 & 10 Geo. 6. c. 73.	The Hill Farming Act, 1946.	In section nine, subsections (4) to (6).
10 & 11 Geo. 6. c. 48.	The Agriculture Act, 1947.	In section one hundred and three, subsection (5).

CHAPTER 46.

Employment and Training Act, 1948.

ARRANGEMENT OF SECTIONS.

PART I.

FUNCTIONS OF MINISTER AS TO EMPLOYMENT SERVICES.

Section.

1. General functions of Minister as to employment and training for employment.
2. Employment exchanges and employment services.
3. Provisions as to training for employment.
4. Schemes for promoting regularity of employment.
5. Payments towards cost of removal and resettlement of workers.
6. Saving for existing powers.

PART II.

THE YOUTH EMPLOYMENT SERVICE.

7. Central Youth Employment Executive.
8. National Youth Employment Council.

Section.

9. Youth Employment Committees.
10. Powers of local education authorities.
11. Administration by local education authorities of unemployment benefit and national assistance.
12. Amendment and revocation of schemes under s. 10.
13. Notification of particulars.

PART III.

SUPPLEMENTAL.

14. Expenses.
15. Supplementary provisions as to National Youth Employment Council, etc.
16. Provisions as to offences.
17. General provisions as to regulations.
18. Interpretation.
19. Application to Scotland.
20. Provisions as to Northern Ireland.
21. Repeals.
22. Short title and extent.

SCHEDULES :

First Schedule.—National Youth Employment Council and Advisory Committees for Scotland and Wales.

Part I.—Constitution of Council and Committees.

Part II.—Supplementary Provisions.

Second Schedule.—Enactments Repealed.

An Act to make fresh provision with respect to the functions of the Minister of Labour and National Service relating to employment and training for employment; to provide for the establishment of a comprehensive youth employment service; to consolidate with amendments certain enactments relating to the matters aforesaid; and for purposes connected therewith. [13th July 1948.]

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.

FUNCTIONS OF MINISTER AS TO EMPLOYMENT SERVICES.

1.—(1) Subject to the provisions of this Act, it shall be the duty of the Minister of Labour and National Service (in this Act referred to as "the Minister") to provide such facilities and services as he considers expedient for the purpose of assisting persons to select, fit themselves for, obtain and retain employment suitable to their age and capacity, of assisting employers to obtain suitable employees, and generally for the purpose of promoting employment in accordance with the requirements of the community.

PART I.
—*cont.*

(2) For the purpose of advising and assisting him in the performance of his functions under this Act, the Minister may appoint such advisory committees as he thinks fit, and any such committee may be appointed either in respect of the whole of Great Britain or in respect of any area therein.

(3) The Minister may make regulations with respect to the constitution and functions of any such advisory committee as aforesaid.

Employment
exchanges
and
employment
services.

2.—(1) The Minister may establish and maintain, in such places as he thinks fit, employment exchanges, that is to say offices or places for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting persons who seek to engage employees and persons who seek employment.

(2) Without prejudice to the provisions of the last foregoing subsection, the Minister may make such arrangements as he considers expedient, whether by means of employment exchanges or otherwise, for the collection and furnishing of information, and the provision of advice, guidance or other services for persons of any class (whether employed or not) for any of the purposes mentioned in section one of this Act.

(3) Subject to the approval of the Treasury, the Minister may defray or contribute towards expenditure incurred by any local authority under any enactment other than this Act in the provision of any such services as are mentioned in the last foregoing subsection, and may make such contributions as he may, with the consent of the Treasury, determine towards the funds of any voluntary association having among its objects the provision of any such services.

(4) The Minister may make regulations with respect to the management of employment exchanges provided by him under this section, and otherwise with respect to the exercise of his functions thereunder.

(5) No person shall be disqualified or otherwise prejudiced in respect of facilities provided at any employment exchange as aforesaid on account of his refusal to accept employment found for him through such an exchange if the ground of his refusal is that a trade dispute which affects his trade exists, or that the wages offered are lower than those current in the trade in the district where the employment is found.

(6) Subject to the approval of the Treasury, the Minister may, in such cases and subject to such conditions as he thinks fit, make payments by way of grant or loan to persons travelling to or attending at any employment exchange or other place for the purpose of availing themselves of services provided under

this section, and may pay to medical practitioners, in respect of the examination of persons availing themselves of such services, such fees as he may determine.

(7) If any person, for the purpose of obtaining employment or procuring employees, knowingly makes any false statement or false representation to an officer of any employment exchange provided by the Minister under this section, or to any person acting for or for the purposes of any such exchange, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.

(8) The Minister shall, so far as practicable, make arrangements with employers for the notification by them to employment exchanges of situations in their employment which are or are about to become vacant.

3.—(1) The Minister may provide such training courses for persons, whether employed or not, who are above the upper limit of the compulsory school age as he thinks necessary or expedient for any of the purposes mentioned in section one of this Act. Provisions as to training for employment.

(2) For the purposes aforesaid, the Minister may, in such cases and subject to such conditions as he may with the approval of the Treasury determine, defray or contribute towards the cost of training courses provided by any other authority or person for any such persons as are mentioned in the last foregoing subsection.

(3) References in this section to the provision of a training course shall be construed as including references—

- (a) to the making of payments to persons who attend at any such course, in respect of their maintenance or in respect of their travelling expenses ;
- (b) to the provision of residential accommodation, board and facilities for recreation and welfare for such persons ;
- (c) to the provision of any other facilities or services incidental to the purposes of the course.

(4) Without prejudice to the foregoing provisions of this section, where, in pursuance of arrangements made with the Minister, provision is made by an employer for the training of persons in his employment, the Minister may, with the approval of the Treasury, make any payment or provide any facility or service to or for the benefit of those persons which he could make or provide if they were attending at a training course provided by him under this section.

(5) Nothing in this section shall be construed as authorising the Minister to defray or contribute towards the cost of any course of instruction provided by a local education authority

PART I.
—cont.
25 & 26 Geo. 5.
c. 8.

under section seventy-six of the Unemployment Insurance Act, 1935, or to make any payment or provide any facility or service to or for the benefit of persons attending at such a course.

9 & 10 Geo. 6.
c. 67.

(6) Subject as hereinafter provided the Minister of National Insurance may, with the consent of the Treasury, authorise the payment out of the National Insurance Fund of contributions towards expenses incurred by the Minister under this section in respect of persons entitled to unemployment benefit under the National Insurance Act, 1946, and persons who would be so entitled but for regulations made under that Act :

Provided that contributions under this subsection shall not exceed half a million pounds in any year.

Schemes for
promoting
regularity of
employment.

4.—(1) Where any scheme for promoting greater regularity of employment in any industry is approved by the Minister on the joint application of an organisation representing employers and an organisation representing workmen in that industry, the Minister may, in accordance with arrangements made with the consent of the Treasury, assist the administration of the scheme by attaching officers of the Ministry of Labour and National Service to help in the administration thereof, and by such other means as he thinks fit.

(2) The Minister may, in accordance with such arrangements as aforesaid, issue on behalf of employers to persons to whom any such scheme applies any sums payable to those persons whether by way of wages or otherwise :

Provided that any arrangements making provision for the issue of any such sums shall also make provision for paying to the Minister any sums so issued by him and any expenses incurred by him which are attributable to the scheme.

(3) If an organisation representing employers and an organisation representing workmen in any industry make to the Minister a joint representation as to any difficulty in the operation of any scheme for promoting greater regularity of employment in the industry, or in making any further scheme for that purpose for the industry, the Minister may appoint one or more persons to hold an inquiry into the circumstances giving rise to the difficulty and to make a report to him with respect thereto.

(4) The fee to be paid by the Minister to any person holding such an inquiry as aforesaid shall be such as the Minister may with the consent of the Treasury direct.

Payments
towards cost
of removal
and
resettlement
of workers.

5.—(1) Subject to the approval of the Treasury, the Minister may, for the purposes of his functions under section one of this Act, make provision by way of grant or loan or otherwise—

(a) for facilitating the removal of any persons, with or without their dependants, to or from any place in Great Britain for the purpose of obtaining employment ;

- (b) for the maintenance and welfare of persons so removed in the course of their removal or pending their resettlement, and, in the case of persons removed to any place in Great Britain, for their resettlement ;
- (c) where any persons removed as aforesaid for the purpose of obtaining employment fail to obtain employment, or employment obtained by persons so removed comes to an end, for facilitating the further removal of those persons, with or without their dependants, to any place whether in Great Britain or elsewhere.

PART I.
—cont.

(2) Where any payment by way of loan has been made by the Minister under this section to or in respect of any person, being a person satisfying the contribution conditions for unemployment benefit under the National Insurance Act, 1946, on account of expenses of travelling to any place for the purpose of obtaining employment, the Minister of National Insurance may, whether or not that person obtains employment at that place, repay out of the National Insurance Fund such part of the advance as may be prescribed by regulations made by that Minister with the consent of the Treasury ; and except as provided by the following provisions of this section, any sum so repaid out of the National Insurance Fund shall not be recoverable from the person to whom the loan was made.

(3) If, in the event of employment being found for a person to or in respect of whom any such payment as is mentioned in the last foregoing subsection has been made, that person either fails without reasonable excuse to enter on that employment, or, within seven days of entering on it, leaves that employment without reasonable excuse, the sum repaid under the last foregoing subsection out of the National Insurance Fund may be recovered from him or deducted from any unemployment benefit, sickness benefit or retirement pension under the National Insurance Act, 1946, which may thereafter become payable to him.

(4) Any sums recoverable under the last foregoing subsection may, without prejudice to any other remedy, be recovered by the Minister of National Insurance summarily as a civil debt, and any sums recovered under that subsection shall be paid into the National Insurance Fund.

6. The powers conferred on the Minister by this Part of this Act shall be additional to and not in substitution for any powers exercisable by the Minister or by any other authority under any other enactment. Saving for existing powers.

PART II.

THE YOUTH EMPLOYMENT SERVICE.

7.—(1) For the purpose of facilitating the establishment of a comprehensive youth employment service, the Minister may make arrangements with the Minister of Education and the Central Youth Employment Executive.

PART II.
—*cont.*

Secretary of State for the performance of any of his functions under this Act in relation to persons to whom this Part of this Act applies through an executive body, to be known as the Central Youth Employment Executive, consisting of such persons, being officers of the Minister, the Minister of Education or the Secretary of State, as may be appointed in accordance with the arrangements.

(2) The persons to whom this Part of this Act applies are persons under the age of eighteen years and persons over that age who are for the time being attending school.

**National
Youth
Employment
Council.**

8.—(1) Without prejudice to the powers conferred on the Minister by this Act to appoint advisory committees, there shall be constituted, in accordance with the provisions of Part I of the First Schedule to this Act, a council, to be known as the National Youth Employment Council, and Advisory Committees on Youth Employment for Scotland and Wales respectively.

(2) It shall be the duty of the National Youth Employment Council (in this Act referred to as "the Council") to advise the Minister as to the performance of his functions and the functions of local education authorities under this Act in relation to persons to whom this Part of this Act applies, and for that purpose to make to him such reports as the Minister may require and such representations as they consider expedient: and it shall be the duty of the said Advisory Committees to advise the Council as to the matters aforesaid so far as they relate to Scotland and Wales respectively, and for that purpose to make to the Council such reports as the Council may require and such representations as they consider expedient.

(3) The supplementary provisions contained in Part II of the First Schedule to this Act shall have effect in relation to the Council and in relation to the Advisory Committees constituted under this section.

**Youth
Employment
Committees.**

9.—(1) Regulations made by the Minister under section one of this Act shall provide for the constitution, for such areas as the Minister may determine, of advisory committees, to be known as Youth Employment Committees, for the purpose of advising the Minister as to the performance in those areas of his functions under this Act in relation to persons to whom this Part of this Act applies and of performing in relation to such persons in those areas such other duties connected with the Minister's said functions as may be specified in the regulations:

Provided that no such committee shall be appointed for any area in respect of which a scheme approved by the Minister under the next following section is for the time being in force.

(2) The chairman and members of any such committee shall be appointed by the Minister, and shall include persons possessing

experience and knowledge of education, employment and other conditions affecting the welfare of persons to whom this Part of this Act applies.

PART II.
—cont.

10.—(1) Subject to the provisions of this section, any local education authority may be authorised by means of a scheme approved by the Minister under this section to undertake, in respect of the whole area of that authority, any such functions as are conferred on the Minister by section two of this Act in relation to persons to whom this Part of this Act applies, being persons who are for the time being attending school or residing or employed in any part of that area, or who apply in that area for advice as to employment whether in that area or elsewhere.

Powers of
local
education
authorities.

(2) Any scheme approved by the Minister under this section—

- (a) shall contain such provisions as appear to the Minister to be expedient for requiring the local education authority to consult and co-operate with the local education authority for any other area for which a scheme under this section is in force or, where no such scheme is in force, with the Minister ;
- (b) shall provide for the exercise by a committee of the local education authority of such of the functions of that authority under the scheme as may be prescribed by the scheme ; and
- (c) shall provide for the appointment by the said committee of one or more sub-committees, to be known as Youth Employment Committees, constituted in such manner as may be prescribed by the scheme, and for the performance by any such sub-committee of such advisory functions and such other duties connected with the functions of the local education authority under the scheme as may be so prescribed.

(3) Where a scheme under this section is in force, the Minister shall from time to time pay to the local education authority in respect of their administrative expenses under the scheme such sums as may be determined in accordance with regulations made by the Minister with the consent of the Treasury.

(4) Subject to the provisions of the next following subsection, the Minister may approve any scheme submitted to him for his approval under this section either without modification or subject to such modifications as he considers expedient after consultation with the local education authority.

(5) No scheme shall be approved by the Minister under this section unless it is submitted to him within six months after the commencement of this Act :

Provided that if any scheme so submitted is not approved by the Minister, he may authorise the local education authority

PART II.
—cont.

to submit to him a fresh scheme within such period as he may direct, and may approve any fresh scheme submitted by that authority within that period.

Administra-
tion by local
education
authorities of
unemployment
benefit and
national
assistance.

11.—(1) Any scheme approved under the last foregoing section shall provide, in addition to the matters specified in that section, for the performance by the local education authority of such functions as may be prescribed by the scheme in connection with—

- (a) the administration of unemployment benefit claimed under the National Insurance Act, 1946, by persons under the age of eighteen years ;
- (b) the grant of assistance under the National Assistance Act, 1948, to persons under that age.

(2) There shall in each year be paid out of the National Insurance Fund to every local education authority performing such functions as are mentioned in paragraph (a) of the last foregoing subsection, sums equal to the aggregate amount from time to time paid by that authority in unemployment benefit under the National Insurance Act, 1946:

(3) The National Assistance Board shall in each year pay to every local education authority performing such functions as are mentioned in paragraph (b) of subsection (1) of this section, sums equal to the aggregate amount of the expenses from time to time incurred by that authority in giving assistance under the National Assistance Act, 1948, not being expenses in respect of which payments may be made by the Minister under subsection (3) of section ten of this Act.

II & 12 Geo. 6.
c. 29.

Amendment
and
revocation
of schemes
under s. 10.

12.—(1) A scheme approved by the Minister under section ten of this Act may be amended by a subsequent scheme so approved, and subsection (5) of that section shall not apply to any such amending scheme.

(2) If it appears to the Minister that any such scheme as aforesaid should be amended, he may after consultation with the local education authority give directions to the local education authority requiring them to submit for his approval a scheme amending the first mentioned scheme in respect of such matters as may be specified in the directions ; and if any such directions are not complied with within such time as may be specified therein, the Minister may, after consultation with the Council, by order revoke the scheme.

(3) A scheme approved by the Minister under section ten of this Act may, if application is made in that behalf by the local education authority, be revoked by order made by the Minister as from such date (not being earlier than six months from the

date on which the application is made) as may be specified in the order.

PART II.
—cont.

(4) If it appears to the Minister that all or any of the functions of the local education authority under any such scheme as aforesaid have not been or are not being adequately performed, he may after consultation with the local education authority give to that authority such directions for remedying the default as he considers appropriate ; and if any such directions are not complied with to the satisfaction of the Minister, he may, after consultation with the Council, by order revoke the scheme as from such date as may be specified in the order.

(5) Without prejudice to the foregoing provisions of this section, if it appears to the Minister after consultation with a local education authority on whose application a scheme has been approved under section ten of this Act that the said authority have not taken, within the period of six months from the date on which that scheme was so approved, or such longer period as may be allowed by the Minister in any particular case, such steps as are necessary for putting the scheme into effective operation, he shall by order revoke the scheme.

13.—(1) The Minister may make regulations for requiring Notification of the proprietors of schools to furnish to the Minister in such particulars. manner as may be prescribed by the regulations such particulars as may be so prescribed with respect to pupils leaving school or who, while attending school, attain such age as may be prescribed by the regulations.

(2) The particulars prescribed by any such regulations for the purposes of the last foregoing subsection shall be such particulars relating to the health, ability, educational attainments and aptitudes of the persons to whom they relate as appear to the Minister to be required for enabling adequate advice and assistance to be given to those persons in accordance with the provisions of this Act.

(3) Any regulations made under this section shall make provision for restricting the disclosure of any particulars furnished thereunder, for prescribing the conditions under which records of any such particulars shall be maintained and the purposes for which they may be used and for requiring such records to be destroyed after such period as may be prescribed by the regulations :

Provided that any person being a parent or the guardian of a person of whom particulars have been so furnished shall be entitled, on application to the officer having the custody thereof, to examine those particulars in his presence, but shall not be entitled to receive or take copies thereof.

PART II.
—cont.

(4) If any person contravenes or fails to comply with any requirement imposed on him by regulations made under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.

(5) In relation to any area in which a scheme under section ten of this Act is for the time being in force, subsection (1) of this section shall have effect as if for the second reference to the Minister there were substituted a reference to the local education authority, and as if the references to schools did not include any school maintained by that authority :

Provided that subsection (3) of this section shall apply to any particulars kept by the local education authority in accordance with the scheme with respect to pupils of any school so maintained, as if those particulars had been furnished in pursuance of regulations made under the said subsection (1).

PART III.

SUPPLEMENTAL.

Expenses.

14.—(1) Subject to the provisions of this Act with respect to payments to be made out of the National Insurance Fund or by the National Assistance Board, there shall be paid out of moneys provided by Parliament, to such amount as may be sanctioned by the Treasury,—

- (a) any expenditure of the Minister or the Minister of Education or the Secretary of State under this Act ;
- (b) such expenses or allowances payable to the members of the Council, of the Advisory Committees for Scotland and Wales, of any other committee appointed by the Minister under this Act, or of any committee or sub-committee thereof, as the Minister may with the consent of the Treasury determine.

(2) Any sums paid out of the National Insurance Fund in respect of expenditure of the Minister under this Act shall be paid as an appropriation in aid of moneys provided by Parliament for that expenditure.

Supplementary provisions as to National Youth Employment Council, etc.

15.—(1) His Majesty may by Order in Council amend any of the provisions of Part I of the First Schedule to this Act relating to the number or qualification of the persons to be appointed as members of the Council or of the Advisory Committee for Scotland or Wales.

(2) Any such Order in Council may be varied or revoked by a subsequent Order in Council.

(3) A draft of any Order in Council under this section shall be laid before Parliament, and the draft shall not be submitted to His Majesty unless each House of Parliament presents an Address to His Majesty praying that the Order be made.

PART III.
—cont.

16. Proceedings for any offence under this Act shall not be instituted except by or with the consent of the Minister.

Provisions as
to offences.

17. Any power of the Minister or the Minister of National Insurance to make regulations under this Act shall be exercisable by statutory instrument, and every such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

General
provisions
as to
regulations.

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

Interpretation.

“ compulsory school age ” has the meaning assigned to it by section thirty-five of the Education Act, 1944 ;

7 & 8 Geo. 6.

“ industry ” means any class or classes of establishments or undertakings or of branches or departments of establishments or undertakings, or any class or classes of such establishments, undertakings, branches or departments in any area, which the Minister may determine to be an industry for the purposes of this Act ;

c. 31.

“ local authority ” means the council of a county, county borough or county district, the common council of the City of London and the council of any metropolitan borough ;

“ local education authority ” means a local education authority as defined by section one hundred and fourteen of the Education Act, 1944 ;

“ proprietor ” in relation to a school maintained by a local education authority means that authority, and in relation to any other school means the person or body of persons responsible for the management of the school ;

“ school ” means a school as defined by section one hundred and fourteen of the Education Act, 1944 ;

“ training course ” includes a course of instruction or course of occupation ;

“ voluntary association ” includes any company which is required by its constitution to apply its profits, if any, or other income in promoting its objects and prohibited thereby from paying any dividend to its members.

PART III.
—cont.

(2) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment.

Application
to Scotland.

19.—(1) This Act shall apply to Scotland subject to the modifications specified in this section.

(2) The following expressions, unless the context otherwise requires, shall have the meanings respectively assigned to them, that is to say—

“ compulsory school age ” has the meaning assigned to the expression “ school age ” by section thirty-two of the Education (Scotland) Act, 1946 ;

“ local authority ” means a county or town council ;

“ local education authority ” has the meaning assigned to the expression “ education authority ” by section one hundred and forty-three of the Education (Scotland) Act, 1946 ;

“ proprietor ” in relation to a school under the management of an education authority means that authority, and in relation to any other school means the person or body of persons responsible for the management of the school ;

“ school ” has the meaning assigned to that expression by section one hundred and forty-three of the Education (Scotland) Act, 1946.

(3) Any reference to the recovery of a sum summarily as a civil debt shall have effect as if the word “ summarily ” were omitted.

10 & 11 Geo. 6.
c. 43.

(4) Nothing in the provisions of Part V of the Local Government (Scotland) Act, 1947, with regard to the constitution of sub-committees of local authorities shall apply to a Youth Employment Committee.

(5) Section sixteen of this Act shall not apply.

Provisions as
to Northern
Ireland.10 & 11 Geo. 5.
c. 67.

20.—(1) No limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act, 1920, shall preclude that Parliament from making laws for purposes similar to any of the purposes of this Act.

(2) There shall in respect of each year be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof to the Government of Northern Ireland such amount as may be agreed between the Treasury and the Ministry of Finance for Northern Ireland, or as in default of agreement may be determined by the Joint Exchequer Board, to represent the amount of the expenses incurred in that year by that Government under any laws made by the Parliament

of Northern Ireland for such purposes as aforesaid in so far as any such laws could not have been made by the Parliament of Northern Ireland apart from the last preceding subsection.

PART III.
—cont.

21.—(1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

(2) Any regulations made under the Labour Exchanges Act, 9 Edw. 7. 1909, and any rules or other instruments having effect by virtue of such regulations, shall, if in force immediately before the commencement of this Act, continue in force and have effect as if the regulations had been made under the corresponding provisions of this Act, and may be amended or revoked accordingly. c. 7.

(3) Any scheme in force under section eighty-one of the Unemployment Insurance Act, 1935, immediately before the commencement of this Act shall continue in force until the expiration of six months from the commencement of this Act, and if within that period a scheme under section ten of this Act has been submitted to the Minister by the local education authority, shall continue in force for such further period as the Minister may direct; and while any such scheme is in force, the enactments repealed by this section shall have effect in relation thereto as if this section had not been enacted. 25 & 26 Geo. 5.
c. 8.

(4) Notwithstanding the repeal by this section of section one hundred and thirty-five of the Education (Scotland) Act, 1946, any agency which, immediately before the commencement of this Act, is maintained by an education authority under that section may be maintained thereunder until the expiration of six months from the commencement of this Act, and if within that period a scheme under section ten of this Act has been submitted to the Minister by that authority, may be so maintained for such further period as the Minister may direct.

(5) Nothing in this section shall affect the validity of any regulations made, whether before or after the commencement of this Act, under paragraph (g) of subsection (1) of section sixty-nine of the National Insurance Act, 1946, in relation to any enactment repealed by that Act.

22.—(1) This Act may be cited as the Employment and Training Act, 1948. Short title
and extent.

(2) This Act, except section twenty thereof, shall not extend to Northern Ireland.

SCHEDULES.

Section 8.

FIRST SCHEDULE.

NATIONAL YOUTH EMPLOYMENT COUNCIL AND ADVISORY COMMITTEES FOR SCOTLAND AND WALES.

PART I.

CONSTITUTION OF COUNCIL AND COMMITTEES.

1. The members of the Council shall be appointed by the Minister and shall be not more than thirty-six in number, consisting of—

- (a) a chairman and not more than six other persons (including the chairmen of the Advisory Committees for Scotland and Wales) appointed as being independent persons ;
- (b) one person nominated by each of the following bodies, that is to say :—
 - The County Councils Association,
 - The Association of Education Committees,
 - The Association of Municipal Corporations,
 - The London County Council,
 - The Association of County Councils in Scotland,
 - The Association of Councils of Counties of Cities in Scotland, and
 - The Welsh Federation of Education Committees ;
- (c) three persons appointed as representing teachers in England, one as representing teachers in Scotland, and one as representing teachers in Wales ;
- (d) four persons appointed as representing employers in England, two as representing employers in Scotland, and one as representing employers in Wales ;
- (e) four persons appointed as representing workmen in England, two as representing workmen in Scotland, and one as representing workmen in Wales ;
- (f) two persons appointed as representing Youth Employment Committees appointed by the Minister in England, and one as representing Youth Employment Committees so appointed in Scotland.

2. Before appointing any of the persons specified in sub-paragraphs (c) to (e) of the foregoing paragraph the Minister shall consult with such organisations as may appear to him for that purpose to represent the classes of persons referred to in those sub-paragraphs respectively.

3. The members of the Advisory Committee for Scotland shall be appointed by the Minister, and shall be nineteen in number, consisting of—

- (a) a chairman and two other persons appointed as being independent persons ;

- (b) the members of the Council nominated by the Association of County Councils in Scotland and the Association of Councils of Counties of Cities in Scotland and two other persons nominated by those Associations ;
- (c) the member of the Council appointed as representing teachers in Scotland and one other person appointed as representing such teachers ;
- (d) the members of the Council appointed as representing employers in Scotland and two other persons appointed as representing such employers ;
- (e) the members of the Council appointed as representing workmen in Scotland, and two other persons appointed as representing such workmen ;
- (f) the member of the Council appointed as representing Youth Employment Committees in Scotland, and one other person appointed as representing Youth Employment Committees appointed by the Minister in Scotland.

4. The members of the Advisory Committee for Wales shall be appointed by the Minister and shall be fourteen in number, consisting of—

- (a) a chairman and one other person appointed as being independent persons ;
- (b) the member of the Council nominated by the Welsh Federation of Education Committees and two other persons nominated by that Federation ;
- (c) the member of the Council appointed as representing teachers in Wales and one other person appointed as representing teachers in Wales ;
- (d) the member of the Council appointed as representing employers in Wales, and two other persons appointed as representing employers in Wales ;
- (e) the member of the Council appointed as representing workmen in Wales, and two other persons appointed as representing such workmen ;
- (f) one person appointed as representing Youth Employment Committees appointed by the Minister in Wales.

5. Before appointing any of the persons specified in sub-paragraphs (c) to (e) of paragraph 3 or paragraph 4 of this Schedule (other than persons appointed by reason of their being members of the Council) the Minister shall consult with such organisations as may appear to him for that purpose to represent the classes of persons referred to in those sub-paragraphs respectively.

PART II.

SUPPLEMENTARY PROVISIONS.

6. The Minister may make regulations with respect to the appointment, tenure of office and vacation of office of members of the Council and of the Advisory Committees for Scotland and Wales.

7. The Minister may appoint a Secretary to the Council and to each of the said Advisory Committees.

1ST SCH.
—cont.

8. The Council may appoint such committees, and the said Advisory Committees may appoint such sub-committees, as they think fit, to consider and report upon questions referred to them by the Council or the Advisory Committees, as the case may be, and any such committee or sub-committee may include persons who are not members of the Council or of the Advisory Committees, as the case may be.

9. The Council and the said Advisory Committees shall have power to regulate their own procedure.

10. The proceedings of the Council or of any such 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.

Section 21.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
9 Edw. 7. c. 7.	The Labour Exchanges Act, 1909.	The whole Act.
6. & 7 Geo. 5. c. 68.	The New Ministries and Secretaries Act, 1916.	In the Schedule, the words "Labour Exchanges Act, 1909".
25 & 26 Geo. 5. c. 8.	The Unemployment Insurance Act, 1935.	The whole Act except sections seventy-six and seventy-eight and, so far as they relate to those sections, sections sixty-one, seventy-nine, eighty, eighty-three, one hundred and four and one hundred and five, and in section one hundred and thirteen the definitions of "authorised course" and "education authority".
2 & 3 Geo. 6. c. 29.	The Unemployment Insurance Act, 1939.	The whole Act.
9 & 10 Geo. 6. c. 67.	The National Insurance Act, 1946.	In section sixty-eight, subsection (2). Part II of the Eleventh Schedule and the Twelfth Schedule.
9 & 10 Geo. 6. c. 72.	The Education (Scotland) Act, 1946.	Section one hundred and thirty-five.

CHAPTER 47.

Agricultural Wages Act, 1948.

ARRANGEMENT OF SECTIONS.

*The Agricultural Wages Board and Agricultural Wages
Committees.*

Section.

1. The Agricultural Wages Board for England and Wales.
2. Agricultural wages committees for counties and combinations of counties.

Wages and Holidays.

3. Power of Agricultural Wages Board to fix rates of wages, and holidays.
4. Enforcement of wages and holidays orders.
5. Permits to incapacitated persons.
6. Provisions as to learners.
7. Reckoning of benefits and advantages as payment of wages.
8. Power of agricultural wages committee to award additional wages for piece work in certain cases.
9. Provisions as to applications, &c., to agricultural wages committees.
10. Criminal liability of agents and special defence open to employer.
11. Avoidance of agreements in contravention of this Act and saving for other agreements, &c.

Supplementary.

12. Officers.
13. Annual reports.
14. Expenses.
15. Evidence of resolutions and orders of the Board and agricultural wages committees.
16. Power to give effect to, and modify, this Act as respects holidays and holiday remuneration.
17. Interpretation.
18. London.
19. Isles of Scilly.
20. Repeal and savings.
21. Short title and extent.

SCHEDULES :—

First Schedule.—Constitution and Proceedings of the Agricultural Wages Board.

Second Schedule.—Combinations of Counties for which Agricultural Wages Committees are to be Initially Established.

Third Schedule.—Constitution and Proceedings of Agricultural Wages Committees.

Fourth Schedule.—Orders of the Agricultural Wages Board.

Fifth Schedule.—Enactments Repealed.

An Act to Consolidate the Agricultural Wages (Regulation) Acts, 1924 to 1947, and so much of the Holidays with Pay Act, 1938, as enables a wage regulating authority to make provision for holidays and holiday remuneration for workers employed in agriculture in England and Wales.
[13th July 1948.]

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:—

*The Agricultural Wages Board
and Agricultural Wages Committees.*

The
Agricultural
Wages Board
for England
and Wales.

1.—(1) There shall be a Board, to be called the Agricultural Wages Board for England and Wales (in this Act referred to as "the Board"), which shall have, in relation to each of the counties and combinations of counties in England and Wales for which agricultural wages committees are established under the next following section, such functions with respect to the fixing of minimum rates of wages for workers employed in agriculture and of directing that such workers shall be entitled to be allowed holidays, and such other functions, as are conferred on the Board by the subsequent provisions of this Act.

(2) In the exercise, in relation to a county or combination of counties, of their functions under this Act with respect to fixing, cancelling and varying rates of wages, reckoning benefits and advantages as payment of wages and the payment of premiums in respect of apprentices or learners the Board shall, without prejudice to any other provision of this Act, have regard to representations made to them by the agricultural wages committee established under the next following section for the county or combination of counties.

(3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Board.

Agricultural
wages
committees
for counties
and com-
binations of
counties.

2.—(1) Subject to the provisions of this Act, there shall be established, by order of the Minister made by statutory instrument, an agricultural wages committee for each county in England and Wales:

Provided that—

(a) as respects each combination of counties specified in the Second Schedule to this Act, there shall, in the first instance, be established as aforesaid a committee for the combination instead of a committee for each county; and

(b) if, in the case of each of the respective committees for two or more counties, there is passed by the members of the committee representing employers and the members thereof representing workers in agriculture a resolution in favour of combining the counties for the purposes of this Act, there may, if the Minister thinks it expedient, be established as aforesaid a committee for the combination of counties instead of separate committees for the several counties.

(2) Where an agricultural wages committee has been established for a combination of counties, the Minister at any time thereafter may, and on the representation of the committee by resolution of the members thereof representing employers and the members thereof representing workers in agriculture shall, by statutory instrument dissolve the committee.

(3) A combination of counties for which an agricultural wages committee is established under this section shall, until the committee is dissolved, be deemed for the purposes of this section and the subsequent provisions of this Act to be one county.

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

(5) A resolution for the purposes of paragraph (b) of the proviso to subsection (1) of this section or of subsection (2) thereof, as the case may be, that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers in agriculture as are present and voting shall be deemed, for the purposes of the said paragraph (b) or the said subsection (2), as the case may be, to be a resolution of those members.

(6) The provisions of the Third Schedule to this Act shall have effect with respect to the constitution and proceedings of agricultural wages committees.

Wages and Holidays.

3.—(1) Subject to and in accordance with the provisions of this section, the Board shall have power, for each county for which an agricultural wages committee is established under this Act,—

- Power of Agricultural Wages Board to fix rates of wages, and holidays.
- (a) to fix minimum rates of wages for workers employed in agriculture; and
 - (b) to direct that any such workers shall be entitled to be allowed by their employers holidays of such duration as may be specified in the direction.

(2) The powers of the Board with respect to the fixing of minimum rates of wages as aforesaid shall be powers—

- (a) to fix minimum rates for time work ;
- (b) to fix minimum rates for piece work ;
- (c) to fix minimum rates for time work, to apply in the case of workers employed on piece work, for the purpose of securing to such workers a minimum rate of remuneration on a time work basis ;
- (d) to fix separate minimum rates by way of pay in respect of holidays ;

and the exercise by the Board of their powers under paragraph (a) of this subsection shall be obligatory :

Provided that the minimum time rate for piece work shall not in any case be higher than the minimum rate which, if the work were time work, would be applicable thereto by virtue of paragraph (a) of this subsection.

(3) A direction under paragraph (b) of subsection (1) of this section that a worker shall be entitled to be allowed a holiday shall not be given unless both minimum rates of wages in respect of the period of the holiday and minimum rates of wages otherwise than in respect of the holiday have been or are being fixed under this section for that worker, shall provide for the duration of the holiday's being related to the duration of the period for which the worker has been employed or engaged to be employed by the employer who is to allow the holiday and, subject as aforesaid, may make provision as to the times at which or the periods within which, and the circumstances in which, the holiday shall be allowed ; and the power to fix separate minimum rates of wages by way of pay in respect of holidays shall include power to make provision with respect to the times at which, and the conditions subject to which, those wages shall accrue and shall become payable, and for securing that any such wages which have accrued to a worker during his employment by any employer shall, in the event of his ceasing to be employed by that employer before he becomes entitled to be allowed a holiday by him, nevertheless become payable by the employer to the worker.

(4) Any such minimum rates of wages as are mentioned in subsection (2) of this section may be fixed so as to vary according as the employment is for a day, week, month or other period, or according to the number of working hours, or the conditions of the employment, or so as to provide for a differential rate in the case of employment defined by the Board as being overtime employment, and, without prejudice to the generality of the preceding words, a minimum time rate for piece work may be fixed so as to provide for a differential rate for work done

in such circumstances that, if it were time work, it would be treated as overtime for the purposes of the minimum rate applicable thereto by virtue of paragraph (a) of that subsection.

In the exercise of their powers under this subsection, the Board shall, so far as is reasonably practicable, secure a weekly half-holiday for workers.

(5) The Board may, if they think it expedient, cancel or vary a minimum rate fixed or a direction as to holidays given under this section.

(6) The powers conferred on the Board by this section shall be exercised by order made in accordance with the provisions of the Fourth Schedule to this Act.

(7) Nothing in this section shall be construed as preventing the Board fixing or varying a minimum rate of wages so as to secure that workers employed in agriculture receive remuneration calculated by reference to periods during the currency of their employment.

4.—(1) Subject to the provisions of this Act, if an employer fails—

Enforcement
of wages and
holidays
orders.

- (a) to pay to a worker to whom an order under the last preceding section applies wages at a rate not less than the minimum rate fixed by the order ; or
- (b) to pay to any such worker, in respect of a holiday, wages at the times and subject to the conditions specified in the order ; or
- (c) to allow to any such worker the holidays fixed by the order ;

he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds and, in the case of an offence consisting of a failure to pay wages in accordance with the order, to a fine not exceeding one pound for each day on which the offence is continued after conviction ; and in any proceedings against an employer under this subsection in respect of a failure to pay wages at a rate not less than the minimum rate, the court shall, whether there is a conviction or not, order the employer to pay in addition to the fine, if any, such sum as may be found by the court to represent the difference between the amount which ought, at the minimum rate applicable, to have been paid to the worker by way of wages during the period of six months immediately preceding the date on which the information was laid or the complaint was served, and the amount actually so paid to him.

(2) Where proceedings are brought under the preceding subsection in respect of an offence consisting of a failure to pay

wages to a worker at a rate not less than the minimum rate applicable, then, if notice of intention so to do has been served with the summons, warrant or complaint—

- (a) evidence may, on the employer's having been convicted of the offence, be given of any failure on the part of the employer to pay wages to that worker at not less than the minimum rate applicable to him at any time during the eighteen months immediately preceding the period of six months mentioned in the preceding subsection ; and
- (b) on proof of the failure, the court may order the employer to pay such sum as is found by the court to represent the difference between the amount which ought, at the minimum rate applicable, to have been paid to the worker by way of wages during the said eighteen months and the amount actually so paid to him.

(3) In any proceedings against a person under this section it shall lie with him to prove that he has paid wages at not less than the minimum rate or has allowed the holidays fixed by the order, as the case may be.

(4) The powers given by this section for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings.

Permits to
incapacitated
persons.

5.—(1) If, on an application in that behalf, an agricultural wages committee are satisfied that a worker employed or desiring to be employed in their county on time work to which a minimum rate fixed under this Act is applicable, or on piece work to which a minimum time rate so fixed is applicable, is so affected by any physical injury or mental deficiency, or any infirmity due to age or to any other cause, that he is incapable of earning that minimum rate, the committee shall grant to him a permit exempting, as from the date of the application or from a later date specified in the permit, his employment from the provisions of the last preceding section relating to payment of wages at not less than the minimum rate, subject to such conditions as may be specified in the permit, including, if the committee think fit, a condition as to the wages to be paid to the worker, and, while the permit has effect, an employer shall not be liable to any legal proceedings under the last preceding section for failing to pay to the worker wages at a rate not less than the minimum rate if those conditions are complied with.

(2) If an application for a permit under the preceding subsection is not disposed of within twenty-one days after the day on which it is received, then the employer of the worker to whom the application relates shall not be liable to any legal proceedings

under the last preceding section for failing to pay to the worker wages at a rate not less than the minimum rate during the interval between the expiration of the said period and the date on which the application is ultimately disposed of.

(3) Where an agricultural wages committee have granted a permit under subsection (1) of this section and at any time thereafter it appears to the committee, whether on an application under this subsection or otherwise, that the worker to whom the permit relates is no longer so affected by any such incapacity as is mentioned in the said subsection (1) as to be incapable of earning the minimum rate in question, the committee shall revoke the permit.

(4) Where an agricultural wages committee have granted such a permit as aforesaid and it appears to the committee, whether on an application under this subsection or otherwise, that, by reason of any change in minimum rates of wages or in the circumstances of the worker to whom the permit relates, it is expedient to vary any condition specified in the permit, the committee may direct that the condition shall be varied in such manner as may be specified in the direction.

(5) Before revoking any permit or varying any condition under the preceding provisions of this section, an agricultural wages committee shall serve on the worker to whom the permit relates, and, in a case where the identity of his employer is known to the committee, on his employer, notice of their proposal so to do, and afford to the worker and the employer (where such a notice as aforesaid is required to be served on him) an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the permit relates and, in a case where the identity of his employer is known to the committee, on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

(6) Where a permit granted to a worker under subsection (1) of this section contains a condition for the payment of wages to the worker at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the worker in pursuance of this Act shall, as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the minimum rate.

6.—(1) Where a minimum rate of wages has been fixed under Provisions this Act for a special class of workers defined by reference to as to learners. 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.

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 preceding subsection may impose such conditions as appear to them requisite for securing that the worker to whom the application relates shall receive adequate instruction, and that the terms of his employment shall be in other respects satisfactory, and if (whether on an application under this subsection or otherwise) it appears to the committee that a condition imposed under this subsection is not being complied with, or that the terms of the worker's employment are no longer satisfactory, they may revoke the certificate.

(3) An agricultural wages committee may (whether on an application under this subsection or otherwise) vary a condition imposed under the last preceding subsection.

(4) Before revoking a certificate or varying a condition under the preceding provisions of this section, an agricultural wages committee shall serve on the worker to whom the certificate relates and on his employer notice of their proposal so to do, and afford to the worker and employer an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the certificate relates and on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter.

(5) It shall not be lawful for the employer of a worker, being an apprentice or learner, who is employed in agriculture in a county for which an agricultural wages committee is established under this Act to receive directly or indirectly from the worker, or on his behalf or on his account, a payment by way of premium unless the payment is duly made in pursuance of an agreement approved for the purposes of this subsection by the agricultural wages committee, and the amount of a payment received in contravention of this subsection shall be recoverable by the person by whom the payment was made.

(6) If an employer acts in contravention of the last preceding subsection he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and in any proceedings against an employer under this subsection the court shall, whether there is a conviction or not, order the employer to repay any sum which the court finds to have been received by way of premium in contravention of the last preceding subsection.

(7) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of an amount due under subsection (5) of this section.

(8) The Board may by order made in accordance with the provisions of the Fourth Schedule to this Act specify matters with respect to which an agricultural wages committee must be satisfied before granting a certificate under subsection (1) of this section or approving an agreement for the purposes of subsection (5) thereof.

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

Reckoning of
benefits and
advantages
as payment
of wages.

- (a) to define the benefits or advantages (not being benefits or advantages prohibited by law) which for the purposes of a minimum rate of wages fixed under this Act may be reckoned as payment of wages in lieu of payment in cash ;
- (b) to determine the value at which, for the purposes aforesaid, such benefits or advantages may be so reckoned ;
- (c) to limit or prohibit the reckoning for the purposes aforesaid of benefits or advantages as payment of wages in lieu of payment in cash.

(2) Subject to the provisions of any order under the preceding subsection, the court may, in any proceedings under this Act, reckon as a payment of wages such amount as in the opinion of the court represents the value of any benefits or advantages (not being benefits or advantages prohibited by law) received by a worker under the terms of his employment.

(3) If an agricultural wages committee are satisfied, on an application in that behalf made by a worker employed in agriculture in their county or by his employer, that the value determined by an order or direction under this section for a house or part of a house occupied as a separate dwelling by the worker does not correspond with the true value thereof, the committee may, subject to any limits imposed by the Board by order made in accordance with the provisions of the Fourth Schedule to this

Act, direct that the value of the house or part of a house is to be reckoned for the purposes of a minimum rate of wages fixed under this Act at such different amount as may be specified in the direction.

Power of agricultural wages committee to award additional wages for piece work in certain cases.

8.—(1) A worker employed in agriculture in a county on piece work for which neither a minimum piece rate nor a minimum time rate applicable in the case of workers employed on piece work has been fixed, or any person authorised by such a worker, may complain to the agricultural wages committee for the county that the piece rate of wages paid to the worker for that work is such a rate as would yield in the circumstances of the case to an ordinary worker a less amount of wages than the minimum rate for time work applicable in the case of that worker, and the committee may, on any such complaint, after giving the employer an opportunity of making such representations as he thinks desirable, direct that the employer shall pay to the worker such additional sum by way of wages for any piece work done by him at that piece rate at any time within fourteen days before the date of complaint, or at any time after the date of complaint and before the decision of the committee thereon, as in their opinion represents the difference between the amount which would have been paid if the work had been done by an ordinary worker at the minimum rate for time work and the amount actually received by the worker by whom or on whose behalf the complaint is made.

(2) A sum directed under the preceding subsection to be paid by an employer to a worker may be recovered by or on behalf of the worker from the employer summarily as a civil debt.

Provisions as to applications, &c., to agricultural wages committees.

9.—(1) The procedure to be followed on or in connection with applications and complaints under any of the four last preceding sections to agricultural wages committees and sub-committees thereof shall be such (if any) as may be prescribed.

(2) The Minister may pay to persons attending as parties or witnesses before agricultural wages committees and sub-committees thereof allowances by way of compensation for expenses incurred and time lost by such persons in so attending, at such rates as he may, with the approval of the Treasury, determine, and all payments made under this subsection shall be defrayed as part of the expenses of the Minister in carrying this Act into effect.

Criminal liability of agents and special defence open to employer.

10.—(1) Where an offence for which an employer is, under section four or subsection (6) of section six of this Act liable to a fine, has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were

the employer and either together with, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

(2) Where an employer who is charged with an offence under section four or subsection (6) of section six of this Act proves to the satisfaction of the court that he has used due diligence to secure compliance with the relevant provisions of this Act, and that the offence was in fact committed by his agent or some other person, without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any conviction in respect of the offence.

11.—(1) Any such agreement as the following shall be void, that is to say,—

- Avoidance of agreements in contravention of this Act and saving for other agreements, &c.
- (a) an agreement for the payment of wages in contravention of this Act, or for abstaining from exercising a right of enforcing the payment of wages in accordance with this Act ;
 - (b) an agreement as to holidays that is inconsistent with a direction of the Board in that behalf, or for abstaining from exercising the right to holidays conferred by any such direction.

(2) Nothing in this Act shall prejudice the operation of an agreement or custom for the payment of wages at a rate higher than the minimum rate fixed under this Act or an agreement or custom as to holidays that is not inconsistent with a direction of the Board in that behalf.

Supplementary.

12.—(1) The Minister may, subject to the consent of the Treasury as to number, appoint such officers as he thinks necessary for the purpose of investigating complaints and otherwise securing the proper observance of this Act.

(2) Every officer appointed under this section shall be furnished by the Minister with a certificate of his employment, and when acting under or exercising any power conferred upon him by this Act shall, if so required, produce the certificate to any person or persons affected.

(3) An officer so appointed shall have power—

- (a) after giving reasonable notice, to require the production of and to inspect and take copies of wages sheets or other records of wages paid to workers employed in agriculture ;
- (b) to enter at all reasonable times any premises or place for the purpose of such inspection or for the enforcement of this Act, but in the case of a dwelling-house not without giving reasonable notice ; and

(c) to require any such worker, or the employer of any such worker, or any agent of the employer, to give any information which it is in his power to give with respect to the employment of the worker or the wages paid to him.

(4) An officer so appointed shall have power, in pursuance of any special or general directions of the Minister, to take proceedings in respect of offences against this Act and may, although not a barrister or solicitor, prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Act.

(5) Where it appears to an officer so appointed—

(a) that a sum is due from an employer to a worker on account of the payment of wages to him at less than the minimum rate applicable or by reason of a direction given under subsection (1) of section eight of this Act by an agricultural wages committee for the payment of an additional sum by way of wages for piece work ; or

(b) that a sum is due from an employer on account of the receipt of a premium in contravention of subsection (5) of section six of this Act ;

the 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 competent court of jurisdiction for the recovery of the sum in question, and 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.

(6) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of any such sum as is therein mentioned.

(7) If any person—

(a) hinders or molests an officer acting in the exercise of his powers under subsection (3) of this section ; or

(b) refuses to produce any document or give any information which an officer so acting lawfully requires him to produce or give ; or

(c) produces or causes to be produced or knowingly allows to be produced to an officer so acting any wages sheet, record or other document which is false in a material particular, knowing the document to be false ; or

(d) furnishes to an officer so acting any information knowing it to be false,

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

13. The Minister shall make an annual report to Parliament of his proceedings under this Act and of the proceedings of the Board and of agricultural wages committees, and for that purpose the Board and each committee shall, before such date in every year as the Minister may fix, send to the Minister a report of their proceedings under this Act during the preceding year. Annual reports.

14. The expenses of the Minister in carrying this Act into effect and any expenses authorised by the Minister to be incurred by the Board or an agricultural wages committee or sub-committee thereof, in each case up to an amount approved by the Treasury, shall be defrayed out of moneys provided by Parliament. Expenses.

15. In any legal proceedings the production of a document purporting to be a copy of a resolution or order passed or made by the Board or an agricultural wages committee and to be certified by the chairman or secretary of the Board or committee, as the case may be, to be a true copy shall be sufficient evidence of the order or resolution and, in the case of an order, that any notices required to be given by this Act in relation thereto have been duly given, and no proof shall be required of the handwriting or official position of the person certifying the truth of the copy. Evidence of resolutions and orders of the Board and agricultural wages committees.

16.—(1) The Minister may make regulations for giving effect to the purposes of, and modifying, this Act so far as it relates to holidays and minimum rates of wages by way of pay in respect of holidays, and for excluding, in relation to those matters or either of them, the operation of all or any of the provisions of sections four and ten to thirteen of this Act and paragraph 5 of the Fourth Schedule thereto. Power to give effect to, and modify, this Act as respects holidays and holiday remuneration.

(2) The power conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

“agriculture” includes dairy-farming, the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether

carried on for profit or not), and the use of land as grazing, meadow or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds ;

“ consumable produce ” means produce grown for consumption or for other use after severance from the land on which it is grown ;

“ county ” means an administrative county ;

“ employment ” means employment under a contract of service or apprenticeship, and the expressions “ employed ” and “ employer ” shall be construed accordingly ;

“ the Minister ” means the Minister of Agriculture and Fisheries ;

“ prescribed ” means prescribed by regulations made by the Minister by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ;

“ worker ” includes a boy, woman and girl.

(2) For the purposes of this Act, a detached part of a county shall be deemed to be included in the adjoining county or, if it adjoins two or more counties, in such one of them as the Minister by statutory instrument directs.

(3) For the purposes of this Act, a county borough which is surrounded by a county shall be deemed to be included in that county, and a county borough which adjoins two or more counties shall be deemed to be included in such of those counties as the Minister by statutory instrument directs.

(4) The Minister may by statutory instrument direct that, for the purposes of this Act, the area comprising the urban districts of Grange, Ulverston and Dalton-in-Furness and the rural district of Ulverston shall be treated as not forming part of the county of Lancaster but as forming part of the county of Cumberland or the county of Westmorland according as may be specified in the direction.

London.

18. No agricultural wages committee shall be established for the county of London, but such portions of that county as the Minister may by order made by statutory instrument define shall, for the purposes of this Act, be deemed to be included in such other counties as may be specified in the order.

Isles of
Scilly.

19. For the purposes of this Act, the Isles of Scilly shall be deemed to be a county.

20.—(1) The enactments mentioned in the first and second columns of the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeal and savings.

(2) Nothing in this Act shall affect any order, regulation or complaint made, permit granted, resolution passed, direction, certificate or approval given, application made or granted, notice served or given, date fixed or any other thing done, under an enactment repealed by this Act, but any such order, regulation, complaint, permit, resolution, direction, certificate, approval, application, notice, date or thing shall, if in force at the passing of this Act, continue in force, and so far as it could have been made, granted, passed, given, served, fixed or done under the corresponding provision of this Act, it shall have effect as if it had been made, granted, passed, given, served, fixed or done under that corresponding provision and, in the case of an approval, had been given for the purposes of that provision.

(3) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.

(4) Any person holding office or acting or serving under or by virtue of an enactment repealed by this Act shall continue to hold his office or to act or serve as if he had been appointed or authorised under or by virtue of the corresponding provision of this Act.

(5) Where an offence, being an offence for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence in the same manner as if the offence had been committed under the corresponding provision of this Act.

(6) Where an enactment repealed and re-enacted by this Act provides for the doing of some act within, or not earlier than the expiration of, a specified period from the giving of a notice, and the commencement of this Act falls within the period applicable to the giving of a particular notice, the repeal and re-enactment shall be deemed to have taken effect in relation to that notice immediately before the giving thereof.

(7) The mention of particular matters in this section shall not be taken to affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 & 53 Vict.
c. 63.

21.—(1) This Act may be cited as the Agricultural Wages Act, 1948. Short title and extent.

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

SCHEDULES.

FIRST SCHEDULE.

Section 1.

CONSTITUTION AND PROCEEDINGS OF THE AGRICULTURAL WAGES BOARD.

1. The Board shall consist of—

- (a) eight persons representing employers and eight persons representing workers in agriculture nominated in the prescribed manner or elected in the prescribed manner, according as may be prescribed; and
- (b) such number of other persons not exceeding five, as the Minister may from time to time determine, appointed by him;

and of the said persons one at least shall be a woman.

2. The Minister shall designate as chairman of the Board one of the members thereof appointed by him.

3. At every meeting of the Board the chairman, if present, shall preside and, if he is absent, such of the other members appointed by the Minister as the members of the Board then present choose shall preside.

4. The Minister may appoint a secretary for the Board.

5. The Board may, in accordance with regulations made by the Minister by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more committees consisting of members representing employers and members representing workers in agriculture in equal proportions, and of one or more of the members appointed by the Minister, and may refer to any such committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such committee any of their powers and duties under this Act other than a power or duty to fix, cancel or vary minimum rates of wages or to direct that workers shall be entitled to be allowed holidays.

6. The proceedings of the Board or of a committee thereof shall not be invalidated by a vacancy therein or by a defect in the nomination, election or appointment of the chairman or other member of the Board or of a member of the committee.

7. The Minister may, by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make regulations with respect to the proceedings and meetings of the Board and of any committee thereof,

including the appointment of the chairman of the Board and the term of office of the chairman and other members of the Board and the members of committees, the method of voting and the number of members necessary to form a quorum, and any such regulations as to committees may be made so as to apply generally to the procedure of all committees or specially to the procedure of any particular committee; but subject to the provisions of this Schedule and to any regulations so made, the Board and any committee thereof may, respectively, regulate their proceedings in such manner as they think fit.

1ST SCH.
—cont.

8. There may be paid to the members of the Board such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as the Minister may sanction, and all such allowances shall be defrayed as part of the expenses of the Minister in carrying this Act into effect.

SECOND SCHEDULE.

COMBINATIONS OF COUNTIES FOR WHICH AGRICULTURAL WAGES Section 2.
COMMITTEES ARE TO BE INITIALLY ESTABLISHED.

Counties in England.

1. Bedford and Huntingdon.
2. Cambridge and Isle of Ely.
3. Cornwall and Isles of Scilly.
4. Cumberland and Westmorland.
5. Leicester and Rutland.
6. Lincoln, Parts of Kesteven and Lincoln, Parts of Lindsey.
7. Northampton and Soke of Peterborough.
8. Southampton and Isle of Wight.
9. Suffolk, East and Suffolk, West.
10. Sussex, East and Sussex, West.

Counties in Wales.

11. Anglesey and Caernarvon.
 12. Denbigh and Flint.
 13. Merioneth and Montgomery.
 14. Pembroke and Cardigan.
 15. Radnor and Brecknock.
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THIRD SCHEDULE.**Section 2.****CONSTITUTION AND PROCEEDINGS OF AGRICULTURAL
WAGES COMMITTEES.**

1. An agricultural wages committee shall consist of persons representing employers and persons representing workers in agriculture in the county, in equal proportions, of two impartial persons appointed by the Minister and of a chairman.

2. The members of the committee representing employers and the members thereof representing workers shall be nominated in the prescribed manner or elected in the prescribed manner, according as may be prescribed.

3.—(1) The chairman of an agricultural wages committee shall be appointed annually by the committee :

Provided that if the committee at any time fail to appoint a chairman within such period as may be prescribed, the appointment may be made by the Minister.

(2) A committee may nominate one or more persons for the office of vice-chairman, and the chairman may from time to time appoint, to act in his place as vice-chairman in his absence, the person, or one of the persons, nominated.

(3) A member of a committee representing employers and a member of a committee representing workers shall not be qualified to be appointed chairman or vice-chairman of the committee of which he is a member.

4. At every meeting of an agricultural wages committee the chairman, if present, shall preside. If the chairman is absent, the vice-chairman, if present, shall preside. If both the chairman and vice-chairman are absent, such member as the members then present choose shall preside.

5. The Minister may appoint a secretary for an agricultural wages committee.

6.—(1) At a meeting of an agricultural wages committee the chairman, or a vice-chairman presiding at the meeting in his absence, shall be entitled to vote, and in case of an equality of votes shall have a second or casting vote, but before exercising his right to vote, the chairman or vice-chairman, if so authorised by a resolution of the members of the committee representing employers and the members thereof representing workers, may obtain the advice of the Board or a committee thereof as to the exercise of that right, and may adjourn the meeting in order to enable him to do so.

(2) A resolution for the purposes of the preceding sub-paragraph that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers as are present and voting shall be deemed, for those purposes, to be a resolution of those members.

7.—(1) An agricultural wages committee may, in accordance with regulations made by the Minister by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more sub-committees consisting of persons representing employers and persons representing workers in agriculture in the county in equal proportions, and of a chairman, if the committee think fit, and the committee may refer to any such sub-committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such sub-committee any of their powers and duties under this Act.

3RD SCH.
—cont.

(2) The members of a sub-committee may be, but need not be, members of the committee by which the sub-committee is appointed.

8. The proceedings of an agricultural wages committee or of a sub-committee thereof shall not be invalidated by a vacancy therein or by a defect in the appointment, nomination or election of the chairman, vice-chairman or other member of the committee or sub-committee.

9. The Minister may, by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make regulations with respect to the proceedings and meetings of agricultural wages committees and sub-committees thereof, including the appointment of chairmen and the term of office of chairmen and other members, the method of voting and the number of members necessary to form a quorum, and any such regulations may be made so as to apply generally to the procedure of all committees or sub-committees or specially to the procedure of any particular committee or sub-committee; but, subject to the provisions of this Schedule and to any regulations so made, an agricultural wages committee and a sub-committee thereof may respectively regulate their proceedings in such manner as they think fit.

10. There may be paid to the members of an agricultural wages committee and the members of a sub-committee thereof such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as the Minister may sanction, and all such allowances shall be defrayed as part of the expenses of the Minister in carrying this Act into effect.

FOURTH SCHEDULE

ORDERS OF THE AGRICULTURAL WAGES BOARD

Sections 3, 6, 7,
16.

1. Where the Board propose to make an order under any provision of this Act, the Board shall—

- (a) give, in such manner as appears to the Board requisite for informing persons concerned, public notice of the proposed order and of the manner in which and the time (not being less than fourteen days from the date of the notice) within which objections to the proposals may be lodged;

4TH SCH.
—cont.

(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:

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 preceding 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 (as defined in the order) so employed, or to any special area in that county or to any such special class in such a special area, subject in each case to any exceptions specified in the order; and an order of the Board fixing or varying a minimum rate of wages so as to secure that workers employed in agriculture receive remuneration calculated by reference to periods during the currency of their employment may make alternative provisions applying according to different circumstances arising during the currency of a worker's employment or in connection with the termination thereof.

6. Without prejudice to the provisions of this Act as to the cancellation and variation of minimum rates of wages and directions as to holidays, an order of the Board made under any provision of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like conditions.

FIFTH SCHEDULE.

ENACTMENTS REPEALED.

Section 20.

Session and Chapter.	Short Title.	Extent of Repeal.
14 & 15 Geo. 5. c. 37.	The Agricultural Wages (Regulation) Act, 1924.	The whole Act.
1 & 2 Geo. 6. c. 70.	The Holidays with Pay Act, 1938.	Sections one, two, three and five so far as they relate to workers employed in agriculture.
10 & 11 Geo. 6. c. 15.	The Agricultural Wages (Regulation) Act, 1947.	The whole Act.

CHAPTER 48.

An Act to grant money for the purpose of certain local loans out of the Local Loans Fund, and for other purposes relating to local loans. [13th July 1948.]

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) There may be issued by the National Debt Commissioners for the purposes of local loans by the Public Works Loan Commissioners any sum or sums not exceeding in the whole the sum of five hundred million pounds. Grants for public works.

(2) The sums so issued shall be issued during a period beginning with the passing of this Act and ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887.

50 & 51 Vict.
c. 16.

Limit on
commitments
by Public
Works Loan
Commissioners.
9 & 10 Geo. 6.
c. 75.

2. The period aforesaid shall be an issue period within the meaning of section two of the Public Works Loans (No. 2) Act, 1946 (which enables the Public Works Loan Commissioners to undertake to grant loans, including loans falling to be advanced after the expiration of the current issue period), and the aggregate of—

- (a) the commitments of the said Commissioners outstanding at any time during the said issue period in respect of undertakings entered into by them (whether during or before the beginning of that period) to grant local loans, and
- (b) the advances in respect of local loans made by the said Commissioners during that period up to that time,

shall not exceed six hundred and eighty million pounds.

Short title.

3. This Act may be cited as the Public Works Loans Act, 1948.

CHAPTER 49.

Finance Act, 1948.

ARRANGEMENT OF SECTIONS.

PART I.

CUSTOMS AND EXCISE.

Section.

1. Tobacco.
2. Beer.
3. Spirits.
4. Wines.
5. Sweets.
6. Security and pre-entry.
7. Imperial preference for sugar, etc.
8. Key industry duty.
9. Provisions consequential on Geneva Agreement.
10. Ottawa duties on patent leather and rice.
11. Prunes.
12. Forfeiture for breach of certain conditions.
13. Table waters.
14. Pool betting duty.
15. Bookmakers' licence duty.
16. Entertainments duty on stage plays, etc.
17. Relief for rural entertainments.
18. Partial remission of mechanically propelled vehicles duty in certain cases.
19. Amendment as to unladen weight of goods vehicles.

PART II.

PURCHASE TAX.

Section.

20. New purchase tax rates.
21. Treasury orders.
22. Drugs and medicines.
23. Extension of meaning of manufacture.
24. Purchases, etc., affected by, and effect on existing contracts of, change in tax.

PART III.

INCOME TAX (CHARGE OF TAX AND MISCELLANEOUS).

25. Charge of income tax for 1948-49.
26. Higher rates of income tax for 1947-48.
27. Alteration of certain reliefs.
28. Reduced rate relief.
29. Life insurance premiums.
30. Formal assessments under Schedule E to be unnecessary in certain cases.
31. Farming, and other profits arising from land.
32. Transitional provisions as to farming, etc.
33. Extension of time in relation to relief for capital expenditure on rehabilitation.
34. Remission of balancing charges and other provisions, in case of certain undertakings absorbed under nationalisation schemes.
35. Railway wagons of National Coal Board.
36. Widening of exemption for friendly societies and trade unions.
37. Amendment of agreement on double taxation in respect of British income tax and Eire income tax.

PART IV.

INCOME TAX (EXPENSES ALLOWANCES, ETC.).

38. Expenses allowances, etc.
39. Benefits in kind to be taken into account.
40. Valuation of benefits in kind.
41. Meaning of "director", "employment" and "employment to which this Part of this Act applies".
42. Saving for certain payments and expenses.
43. Additional provisions as to information.
44. Charities and non-trading bodies.
45. Interpretation of previous provisions of Part IV.
46. Unincorporated bodies and partnerships.

PART V.

THE SPECIAL CONTRIBUTION.

47. Charge, and amount, of contribution.
48. Ascertainment of income and total income.
49. Meaning of "investment income".
50. Ascertainment of aggregate investment income.
51. Deductions in ascertaining aggregate investment income.
52. Certain payments and income from occupation of property to be income of payer or person entitled to property.
53. Provisions where income under trust payable out of capital, etc.
54. Payment in advance, and interest on unpaid contribution.
55. Assessment and collection of contribution, and service of notices.
56. Recovery of contribution from trustees.
57. Application of trust property, etc., in payment of contributions.
58. Provisions as to husband and wife.
59. Provisions as to certain companies.

Section.

- 60. Appeals.
- 61. Relief where income attributable to period of years was received in year 1947-48.
- 62. Allowance for maintenance, repairs, etc.
- 63. Limitation of liability of trustees.
- 64. Relief where capital subject to death duties.
- 65. Relief in respect of error or mistake.
- 66. Provisions as to National Trust.
- 67. Obligation as to secrecy.
- 68. Interpretation of Part V.

PART VI.

THE PROFITS TAX.

- 69. Payments of interest, etc., between connected companies.
- 70. Repayment of loans treated as gross relevant distributions.
- 71. Directors' remuneration.

PART VII.

STAMPS.

- 72. Agreements as to stamp duty on industrial assurance policies.
- 73. Relief from stamp duty on certain amalgamations of cotton spinning concerns.
- 74. Exemption from stamp duty in connection with certain nationalisation schemes.
- 75. Abolition of stamp duty on faculties for Lambeth degrees, etc.

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- 76. Estate duty where policies kept up or effected under settlements.
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- 81. Certain Defence Bonds and Savings Certificates issued by the Government of Palestine to form part of the National Debt.
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Part II.—Rate of excise drawback.

Part III.—Rate of customs duty in case of beer being an Empire product.

Part IV.—Rate of customs duty in case of beer not being an Empire product.

Part V.—Rate of customs drawback in case of beer being an Empire product.

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Third Schedule.—Spirits (Rates of ordinary customs duty).

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Part II.—Enactments repealed as respects 1949–50 and subsequent years of assessment.

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [30th July 1948.]

Most gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

CUSTOMS AND EXCISE.

1.—(1) Section three of the Finance Act, 1947 (which imposes Tobacco duties of customs and excise on tobacco) shall have effect as if 10 & 11 Geo. 6. Parts I and II of the First Schedule to this Act were respectively substituted for Parts I and II of the First Schedule to that Act. ^{c. 35.}

(2) In the case of tobacco in respect of which it is shown to the satisfaction of the Commissioners that the increased duty chargeable by virtue of the preceding subsection has been paid, the provisions of the said section three relating to drawback shall have effect as if Part III of the First Schedule to this Act were substituted for Part III of the First Schedule to that Act.

(3) The preceding provisions of this section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-eight.

PART I.
—cont.

(4) Subject to the provisions of subsection (5) of this section, there shall be charged on all stocks of leaf tobacco and of manufactured tobacco of any description which at five o'clock in the afternoon on the sixth day of April, nineteen hundred and forty-eight; were in the ownership or possession of a licensed manufacturer of tobacco and in any place in the United Kingdom other than a bonded warehouse, a duty of excise, payable by the manufacturer, at the following rate, that is to say—

- (a) so far as the stocks consisted of leaf tobacco, three shillings and fourpence for every pound weight of the stocks ;
- (b) so far as the stocks consisted of manufactured tobacco of any description, three shillings and fourpence for every pound weight of leaf tobacco from which, in the opinion of the Commissioners, the stocks were derived.

(5) Duty shall not be chargeable under the last preceding subsection—

- (a) on any tobacco as to which it is shown to the satisfaction of the Commissioners that, before the passing of this Act, it has been exported or shipped for use as stores or deposited in the King's Warehouse or a bonded warehouse ; or
- (b) on any manufactured tobacco (including cigarettes, cigars and snuff other than offal snuff) as to which it is shown to the satisfaction of the Commissioners that it was at five o'clock in the afternoon on the said sixth day of April fully prepared for sale by retail and that either—
 - (i) it was not the product of any operation carried out by any manufacturer in whose ownership or possession it was at that time ; or
 - (ii) it was at that time held as retail stock in premises used for selling tobacco by retail ; or
 - (iii) it was at that time in transit from seller to buyer under a contract of sale :

Provided that no tobacco shall be deemed for the purposes of paragraph (b) of this subsection to have been fully prepared for sale by retail if, according to the ordinary course of business of the person in whose ownership or possession it was or to whom it was in transit, it had still to be subjected to some further process (other than packing) before being sold by him.

(6) In the case of tobacco in respect of which it is shown to the satisfaction of the Commissioners that there have been paid the duty of customs at the rates in force immediately before the said seventh day of April and also the duty of excise provided for by subsection (4) of this section, drawback shall be allowable as if

duty had been paid at the increased rates provided for by subsection (1) of this section, so, however, that the tobacco shall be treated as tobacco on which customs duty at the full rate has been paid unless the duty of customs which was paid thereon was paid at a preferential rate.

PART I.
—cont.

(7) Section four of the Finance Act, 1947 (which provides for relief for pensioners) shall have effect as if the reference in paragraph (a) of subsection (1) thereof to the increase in the retail price of tobacco occasioned by the duties imposed by that Act included a reference to the effect of the further increase in the retail price of tobacco occasioned by the provisions of this section.

2.—(1) Section one of the Finance (No. 2) Act, 1939 (which imposes duties of excise and customs in respect of beer) shall have effect as if Parts I, III and IV of the Second Schedule to this Act were respectively substituted for Parts I, III and IV of the First Schedule to that Act. Beer.
2 & 3 Geo. 6.
c. 109.

(2) In the case of beer in respect of which it is shown to the satisfaction of the Commissioners that the increased duty chargeable by virtue of this section has been paid, the provisions of the said section one relating to drawback shall have effect as if Parts II, V and VI of the Second Schedule to this Act were respectively substituted for Parts II, V and VI of the First Schedule to the Finance (No. 2) Act, 1939.

(3) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-eight.

3.—(1) The duties of customs charged on spirits under subsection (1) of section three of the Finance Act, 1920, in addition to the duties specified in Part II of the First Schedule to that Act, shall be charged at the rates specified in the Third Schedule to this Act; and accordingly the said subsection (1) shall have effect as if the said Schedule to this Act were substituted for Part I of the First Schedule to that Act. Spirits.
10 & 11 Geo. 5.
c. 18.

(2) The rate of the duty of excise charged on spirits under subsection (2) of section three of the Finance Act, 1920, in addition to the duties specified in Part III of the First Schedule to that Act, shall be increased to ten pounds ten shillings and tenpence per gallon computed at proof; and accordingly the said subsection (2) shall have effect as if for the words "nine pounds ten shillings and ten pence" there were substituted the words "ten pounds ten shillings and tenpence".

(3) This section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-eight.

4.—(1) Section three of the Finance (No. 2) Act, 1939 (which imposes duties of customs on wines) shall have effect as if Parts I and II of the Fourth Schedule to this Act were respectively substituted for Parts I and II of the Third Schedule to that Act. Wines.

PART I.
—*cont.*

(2) Subsection (1) of this section shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-eight.

(3) So much of section ninety-five of the Customs Consolidation Act, 1876, as relates to the mixing of spirits with wines in a warehouse, and so much of section seventy of the Spirits Act, 1880, as relates to the use of spirits for fortifying wines in a warehouse, shall apply to British flavoured or compounded spirits as they apply to other spirits.

Sweets.

17 & 18 Geo. 5.
c. 10.
11 & 12 Geo. 6.
c. 9.

5.—(1) The duty of excise on sweets charged under section six of the Finance Act, 1927, shall be charged at the rates specified in the Fifth Schedule to this Act instead of at the rates specified in the Fourth Schedule to the Finance (No. 2) Act, 1947.

This subsection shall be deemed to have had effect as from the seventh day of April, nineteen hundred and forty-eight.

(2) The Commissioners may, subject to such conditions as they may require, permit the mixing in an approved warehouse of duty-free spirits with sweets in a proportion not exceeding ten gallons of proof spirits to the hundred gallons of sweets, so, however, that the mixture shall not thereby be raised to a greater degree of strength than thirty-two per cent. of such proof spirit.

(3) Sweets delivered for home consumption from a warehouse in which they have been fortified by virtue of the last foregoing subsection shall be deemed, for the purposes of the said duty of excise on sweets, to have been sent out from the premises of the maker of sweets at the time of the delivery.

**Security and
pre-entry.**
39 & 40 Vict.
c. 36.

6. The Commissioners may, in relation to any goods, relax as they may think fit any provision contained in the Customs Consolidation Act, 1876, or in any enactment amending that Act, with respect to the giving of security or entry before shipment.

**Imperial
preference
for sugar, etc.**
16 & 17 Geo. 5.
c. 22.
9 & 10 Geo. 6.
c. 64.

7. Subsection (1) of section seven of the Finance Act, 1926 (which, as amended by section four of the Finance Act, 1946, provides, among other things, for the stabilisation of rates of imperial preference in the case of duties of customs charged on sugar, molasses, glucose and saccharin during a period ending with the month of August, nineteen hundred and forty-eight) shall, in so far as it relates to the said duties, have effect as if the said period were extended so as to expire at the end of August, nineteen hundred and fifty-two.

**Key industry
duty.**
11 & 12 Geo. 5.
c. 47.

8.—(1) Part I of the Safeguarding of Industries Act, 1921 (which, as extended by section one of the Finance Act, 1946, is limited to expire on the nineteenth day of August, nineteen

hundred and forty-eight) shall continue in force for a further period of three years from that date.

PART I.
—cont.

(2) Where, having regard to the terms for the time being in force of the Agreement on Tariffs and Trade concluded at Geneva in the year nineteen hundred and forty-seven or of any other agreement regarding commercial relations which may be entered into between His Majesty's Government in the United Kingdom and the Government of any other country, it appears to the Treasury, on the recommendation of the Board of Trade, to be expedient so to do, the Treasury may by order direct, in relation to any class or description of goods specified in the order, that any duties chargeable on those goods under the Safeguarding of Industries Act, 1921 (including any additional duties so chargeable by virtue of subsection (4) of section five of the Finance Act, 1936) shall be charged at such reduced rate as may be so specified or shall cease to be charged.

26 Geo. 5 &
1 Edw. 8. c. 34.

(3) An order under this section shall be made by statutory instrument and section nineteen of the Import Duties Act, 1932 (which, among other things, makes provision as to the laying of Treasury orders relating to duties of customs before the Commons House of Parliament) shall apply to an order under this section as if it were an order made by the Treasury under that Act.

22 & 23 Geo. 5.
c. 8.

9.—(1) Where, having regard to the terms for the time being in force of the said Agreement on Tariffs and Trade concluded at Geneva in the year nineteen hundred and forty-seven, it appears to the Treasury, on the recommendation of the Board of Trade, to be expedient so to do, the Treasury may exercise the powers conferred by the following provisions of this section.

Provisions
consequential
on Geneva
Agreement.

(2) The Treasury shall have power by order to vary the rates of duties of customs chargeable under section nine of the Finance Act, 1933, on articles of apparel made wholly or partly of silk or artificial silk which are Empire products within the meaning of subsection (1) of section eight of the Finance Act, 1919.

23 & 24 Geo. 5.
c. 19.

Any order under this subsection shall have effect notwithstanding anything in subsection (5) of the said section nine (which provides that the preferential rates of duty on articles of silk or artificial silk shall be five-sixths of the full rates) and notwithstanding anything in subsection (3) of section three of the Finance Act, 1937 (which provides for a further reduction in the preferential rate for silk stockings or socks).

9 & 10 Geo. 5.
c. 32.

1 Edw. 8 &
1 Geo. 6. c. 54.

(3) The Treasury shall have power by order to vary the rates of duties of customs chargeable under Part I of the Import Duties Act, 1932, on Empire goods, within the meaning of section six of the Finance Act, 1938, of the following descriptions, that is to say, agricultural tractors (not being track-laying tractors), motor bicycles and motor tricycles.

1 & 2 Geo. 6.
c. 46.

PART I.

—cont.

Any order under this subsection shall have effect notwithstanding any provision contained in or made under the said section six (which provides for a preferential rate of duty of two-thirds of the full rate on the said goods).

(4) An order under this section shall be made by statutory instrument and section nineteen of the Import Duties Act, 1932 (which, among other things, makes provision as to the laying of Treasury orders relating to duties of customs before the Commons House of Parliament) shall apply to an order under this section as if it were an order made by the Treasury under that Act.

Ottawa duties
on patent
leather
and rice.

24 & 25 Geo. 5.
c. 32.
22 & 23 Geo. 5.
c. 53.

10.—(1) The proviso to subsection (2) of section six of the Finance Act, 1934 (which provides that the Ottawa duty on patent leather imposed by that section is not to be charged when the agreement with Canada scheduled to the Ottawa Agreements Act, 1932, is not in force, and that the provisions of that Act for reducing Ottawa duties are to be excluded) shall cease to have effect and in the proviso to subsection (1) of that section (which provides that the duty of fifteen per cent. chargeable under that section shall not be charged where a higher duty is chargeable under the Import Duties Act, 1932) for the words "fifteen per cent. of the value of the goods" there shall be substituted the words "the amount of the duty which would be chargeable by virtue of this section".

25 & 26 Geo. 5.
c. 24.

(2) The proviso to subsection (1) of section eight of the Finance Act, 1935 (which provides that the Ottawa duty on rice in the husk imposed by that section is not to be charged when the agreement with India scheduled to the Ottawa Agreements Act, 1932, is not in force, and that the provisions of that Act for reducing Ottawa duties are to be excluded) shall cease to have effect.

(3) For the purposes of the proviso to subsection (3) of section one of the Ottawa Agreements Act, 1932 (which provides that an order under that subsection reimposing a duty or increasing the rate of a duty previously reduced shall not provide for a rate greater than the rate specified in Part I of the Second Schedule to that Act) the rates set out in the said section six and the said section eight shall be treated as rates specified in the said Part I.

Prunes.
39 & 40 Vict.
c. 35.

11. The duties of customs chargeable on prunes under the Customs Tariff Act, 1876, and under the Ottawa Agreements Act, 1932, shall cease to be chargeable and, accordingly,—

(a) the reference to prunes and the rate of duty chargeable in respect thereof in the Schedule to the Customs Tariff Act, 1876; and

(b) the reference to prunes in Part I of the Second Schedule to the Ottawa Agreements Act, 1932, shall cease to have effect; and prunes shall not be chargeable as preserved plums under either of those Acts.

12.—(1) If under any enactment or practice whereby—

(a) goods liable to customs duty are allowed to be delivered without payment of duty on condition that they will not be sold or will be re-exported or upon any other like condition; or

(b) the amount of customs duty payable on any goods depends on their being imported on any such condition, any goods are allowed to be delivered without payment of duty or on payment of duty calculated in accordance with the enactment or practice, and the condition is not fulfilled, the goods shall be forfeited.

(2) The provisions of this section shall apply whether or not any undertaking or security has been given for the fulfilment of the condition or for the payment of the duty payable apart from the condition, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

13. As from the first day of May, nineteen hundred and forty-eight, the following duties (which are imposed as respects table waters) shall cease to be chargeable, that is to say—

(a) the duties of excise chargeable under section four of the Finance (New Duties) Act, 1916;

(b) the duties of customs chargeable under section seven of the Finance Act, 1916; and

(c) the duty of excise on a licence to be taken out annually charged under section nine of the Finance Act, 1916;

and the requirements of section six of the Finance (New Duties) Act, 1916, as to registration or licensing shall cease to have effect as from the said day.

14.—(1) Subject to the provisions of this section, section six of the Finance (No. 2) Act, 1947, (which imposes the pool betting duty) shall have effect as if in subsection (1) thereof for the words "ten per cent." there were substituted the words "twenty per cent."

(2) Subject to the provisions of this section, bets shall be deemed for the purposes of the said section six and of the Fifth Schedule to the said Act to be made by way of pool betting whenever a number of persons make bets on terms that the winnings of such of those persons as are winners shall be, or shall include, an amount (not determined by reference to the stake-money paid or agreed to be paid by those persons) which is divisible in any proportions among such of those persons as are winners.

Nothing in this subsection shall be construed as restricting the definition of pool betting contained in subsection (5) of the said section six as originally enacted.

PART I.

—cont.

Forfeiture
for breach of
certain
conditions.

Table waters.

6 & 7 Geo. 5.

c. 11.

6 & 7 Geo. 5.

c. 24.

Pool betting
duty.

PART I.
—cont.24 & 25 Geo. 5.
c. 58.

(3) Nothing in this section shall apply to bets made by means of a totalisator set up on a dog racecourse which is a track in respect of which a licence granted under Part I of the Betting and Lotteries Act, 1934, is for the time being in force.

(4) In this section the expressions "bet" and "totalisator" have the same meanings as in the said section six.

(5) This section shall be deemed to have come into operation as respects any bets made by reference to any event taking place on or after the seventh day of April, nineteen hundred and forty-eight.

Bookmakers'
licence duty.

15.—(1) A duty of excise, to be known as the bookmakers' licence duty, of an amount determined in accordance with the following Table shall be charged, levied and paid on a bookmaker's licence to be taken out on the occasion of a dog race-meeting at which a totalisator is operated, to carry on bookmaking at the meeting.

TABLE.

For a course where the public is admitted to	A licence authorising the bookmaker to carry on bookmaking in	Amount of duty on the licence	
1.	2.	3.	4.
A single enclosure	The enclosure... ..	£12	Where there are to be more races than eight at the meeting an additional amount of one eighth of the amount in the third column for each race in excess of eight.
Two enclosures and no more.	The cheaper enclosure	£6	
	The dearer enclosure	£24	
More than two enclosures.	The cheapest enclosure	£6	
	The cheapest but one enclosure	£18	
	Any other enclosure ...	£48	

(2) If any person carries on bookmaking in an enclosure at a dog race-meeting at which a totalisator is operated without having taken out a licence for that meeting authorising him to

carry on bookmaking in that enclosure, he shall be liable to an excise penalty of two hundred pounds.

In any proceedings under this subsection the burden of proof that the person from whom the penalty is sought to be recovered took out a licence for the meeting authorising him to carry on bookmaking in the enclosure shall lie on that person.

(3) The supplemental provisions set out in the Sixth Schedule to this Act shall have effect with respect to the bookmakers' licence duty.

(4) For the purposes of this section and the said Schedule—

(a) the expression "enclosure" means a part of a course to which the public is admitted to see the races, and one part of the course shall be treated as being in the same enclosure as another part of the course, or as being in a cheaper or dearer enclosure than that other part, according as the highest charge made to members of the public for admission to the one part of the course is the same as, or less or greater than, the highest charge made to members of the public for admission to that other part of the course ;

(b) the fact that any particular enclosure is, as a temporary measure, closed to the public for any particular meeting or part of a meeting shall not affect any question as to how many enclosures there are on the course or as to which is the cheaper or cheapest ;

(c) any reference to a meeting at which a totalisator is operated shall be construed as a reference to a meeting on a course on which a totalisator is operated for the whole or any part of the meeting ;

(d) a meeting shall be treated as terminated when the public are required to leave the enclosures and, accordingly, any races held on the course after that time shall be treated as held at another meeting ;

(e) the expressions "bookmaker", "bookmaking", "dog race", "dog race-course" and "totalisator" have the meanings assigned to them by subsection (1) of section twenty of the Betting and Lotteries Act, 1934, and "dog race-meeting" shall be construed accordingly.

(5) This section shall come into operation on the tenth day after the day on which this Act is passed.

16.—(1) Section six of the Finance Act, 1943, shall have effect as if for the rates of duty set out in Part I of the Fifth Schedule to that Act (which relates to the rates of entertainments chargeable for stage plays, etc.) there were substituted the rates of duty set out in the Seventh Schedule to this Act.

Entertainments
duty on
stage plays,
etc.
6 & 7 Geo. 6.
c. 28.

PART I.
—cont.

(2) This section shall be deemed to have had effect as respects any payment, whenever made, for admission to any entertainment held on or after the thirtieth day of May, nineteen hundred and forty-eight, and where duty has been charged, at the rates in force apart from the provisions of this section, on any payment made before that day for admission to any entertainment to which the said Part I relates held on or after that day, the person by whom the duty was paid shall be entitled to repayment of the difference between the amount of duty actually paid and the amount, if any, chargeable in accordance with the provisions of this section.

Relief for
rural enter-
tainments.

17.—(1) Entertainments duty shall not be charged on payments for admission to an entertainment as respects which the Commissioners are satisfied—

- (a) that the entertainment is held in a building in a borough, urban district or rural parish within the meaning of the Local Government Act, 1933, being a borough, urban district or parish with a population not exceeding two thousand or with a population not exceeding sixty-four to the square mile ; and
- (b) that seating capacity for more than four hundred persons cannot be provided in the building.

23 & 24 Geo. 5.
c. 51.

(2) In this section references to buildings do not include references to buildings not attached to permanent foundations.

(3) This section shall have effect in Scotland with the substitution, for the references to a borough, urban district or rural parish within the meaning of the Local Government Act, 1933, of references to a small burgh within the meaning of the Local Government (Scotland) Act, 1947, or a landward parish or the landward part of a parish which is partly landward and partly burghal.

10 & 11 Geo. 6.
c. 43.

(4) This section shall have effect and be deemed always to have had effect as respects any payment, whenever made, for admission to any entertainment held on or after the first day of May, nineteen hundred and forty-eight, and where duty has been charged on any payment made before that day for admission to an entertainment to which this section applies held on or after that day, the person by whom the duty was paid shall be entitled to repayment of the amount of the duty :

Provided that—

- (a) in England, this subsection shall have effect in relation to any borough or urban district as if for the reference to the first day of May, nineteen hundred and forty-eight, there were substituted a reference to the first day of August, nineteen hundred and forty-eight ; and

- (b) as respects entertainments held, whether in England or in Scotland, before the said first day of August, paragraph (b) of subsection (1) of this section shall have effect and be deemed always to have had effect as if for the words "four hundred persons," there were substituted the words "two hundred persons."

PART I.
—cont.

- 18.—(1) Where, before such date as may be specified by order of the Treasury, a licence under section thirteen of the Finance Act, 1920, is issued in respect of either—
- (a) a vehicle, being a bicycle or a tricycle, which is chargeable with duty under paragraph 1 of the Second Schedule to that Act, and which is not constructed or adapted to use as fuel other than light oils ; or
- (b) a vehicle chargeable with duty under paragraph 6 of that Schedule, which is not constructed or adapted to use as fuel any fuel other than light oils,

Partial remission of mechanically propelled vehicles duty in certain cases.

and the condition specified in subsection (2) of this section is fulfilled, the licence shall be issued on payment of half only of the duty chargeable and the other half of the duty chargeable shall be remitted, but a licence so issued shall become void on that condition ceasing to be fulfilled.

(2) The said condition is that either—

- (a) no coupons, except standard ration coupons, have been issued in respect of the vehicle to the person in whose name it is registered under the Roads Act, 1920 ; or
- (b) it is certified by a person authorised in that behalf by the Minister of Fuel and Power that every coupon so issued, other than a standard ration coupon, has been delivered up unused to that Minister in accordance with the orders of that Minister for the time being in force in respect of the control of motor fuel ; or
- (c) the period of the validity of every coupon so issued, other than a standard ration coupon or a coupon so certified as aforesaid to have been so delivered up unused, has expired :

10 & 11 Geo. 5.
c. 72.

Provided that where—

- (i) coupons other than standard ration coupons have been so issued for any period ; and
- (ii) it is certified by a person authorised as aforesaid that some of those coupons have been delivered up unused as aforesaid before the expiration of that period,

the period of the validity of all those coupons shall be treated for the purposes of this section (but not for any other purpose) as expiring on such date as may be specified in the certificate,

PART I.
—cont.

being the date by which so much only of that period remains as bears to the whole thereof the same proportion as the number of units of fuel covered by the coupons which are delivered up unused bears to the number of units of fuel which were covered by all the said coupons.

14 & 15 Geo. 5.
c. 21. (3) On the surrender of a licence in respect of which there has been a remission of duty under this section, the repayment of duty, if any, falling to be made under section eighteen of the Finance Act, 1924, shall be computed by reference to the duty chargeable as diminished by the amount of the remission.

18 & 19 Geo. 5.
c. 17. (4) In this section, the expressions "coupon" and "standard ration coupon" have the same meanings as for the purposes of the orders of the Minister of Fuel and Power from time to time in force in respect of the control of motor fuel, and the expression "light oils" has the meaning assigned to it by subsection (3) of section two of the Finance Act, 1928.

(5) This section shall be deemed to have had effect as from the first day of June, nineteen hundred and forty-eight.

Amendment
as to unladen
weight of
goods vehicles.

19.—(1) Section seven of the Finance Act, 1937 (which provides that the unladen weight of a goods vehicle shall for the purposes of paragraph five of the Second Schedule to the Finance Act, 1920, be taken to include the weight of certain receptacles placed on vehicles) shall have effect subject to the amendments specified in the following provisions of this section.

(2) For paragraph (b) of the proviso to subsection (1) of that section (which exempts from inclusion in the unladen weight of a goods vehicle by virtue of that section receptacles constructed or adapted for the purpose of being lifted on or off a vehicle with goods or burden contained therein) there shall be substituted the following paragraphs—

"(b) if the receptacle is constructed or adapted for the purpose of being lifted on or off the vehicle with goods or burden contained therein and is from time to time actually used for that purpose in the ordinary course of business; or

(c) if the receptacle is specially constructed or specially adapted for carrying livestock and is used solely for that purpose."

(3) After the said subsection (1) there shall be inserted the following subsections—

"(1A) If any question arises under paragraph (b) of the proviso to subsection (1) of this section whether any receptacle is from time to time actually used for the purpose therein

mentioned in the ordinary course of business, the receptacle shall be deemed not to be so used until the contrary is shown.

PART I.
—*cont.*

(1B) For the purposes of paragraph (c) of the proviso to subsection (1) of this section, a receptacle shall not be deemed to be used otherwise than solely for carrying livestock by reason that, on a journey the main purpose of which is the carriage of livestock or on the way to the loading point or while returning from the discharging point on such a journey, the vehicle is used for carrying agricultural produce or agricultural requisites."

PART II.

PURCHASE TAX.

20.—(1) Subject to the provisions of this Part of this Act relating to drugs and medicines, the provisions of Part I of the Eighth Schedule to this Act shall have effect, and shall be deemed to have had effect as from the ninth day of April, nineteen hundred and forty-eight, in substitution for any enactment in force before that date, for determining what goods are chargeable goods for the purposes of purchase tax and the rates of purchase tax chargeable in respect of goods of any class: New purchase tax rates.

Provided that—

- (a) the provisions of the said Part I exempting from purchase tax articles knitted or crocheted by hand without mechanical aid, including such articles embroidered by hand-needlework, shall be deemed to have had effect only as from the first day of June nineteen hundred and forty-eight; and
- (b) the tissues and fabrics mentioned in sub-paragraph (i) of paragraph (a) of Group 6 in the said Part I shall be deemed to have been chargeable at the second rate for the period beginning with the said ninth day of April and ending with the second day of May nineteen hundred and forty-eight; and
- (c) the articles mentioned in paragraph (c) of Group 23 in the said Part I shall be deemed to have been chargeable at the second rate for the period beginning with the said ninth day of April and ending with the thirty-first day of May, nineteen hundred and forty-eight; and
- (d) the following articles shall be deemed to have been chargeable at the rates hereinafter respectively specified for the period beginning with the said ninth day of

PART II.
—cont.

April and ending with the fifteenth day of June, nineteen hundred and forty-eight, that is to say—

utility garments made wholly or mainly of fur skin	... ..	Second
articles comprised in paragraph (d) of Group 5 in the said Part I	... ..	Second
paper handkerchiefs and paper towels	... ..	Second
articles comprised in sub-paragraph (iii) of paragraph (b) of Group 11 in the said Part I	... ..	Second
articles comprised in paragraph (r) of Group 11 in the said Part I	... ..	First
appliances comprised in paragraph (b) of Group 12 in the said Part I, being appliances suitable for operation from gas mains	... ..	Third
articles comprised in paragraph (d) of Group 14 in the said Part I, other than glass chimneys and similar primary glasses	... ..	First
articles comprised in sub-paragraph (i) of paragraph (a) of Group 17 in the said Part I or in sub-paragraph (i) of paragraph (b) of that Group or in sub-paragraph (i) of paragraph (c) of that Group	... ..	Second
articles comprised in paragraph (a) of Group 18 in the said Part I	... ..	Second

(2) In the said Part I the words “First”, “Second” and “Third” indicate the first, second and third rates of purchase tax which are respectively one-third, two-thirds and one hundred per cent. of the wholesale value of the goods.

(3) In the said Part I—

- (a) the expression “Exempt” means exempt from all charge of purchase tax ;
- (b) the expression “utility” in relation to any goods means goods which, under any order made by the Board of Trade by virtue of any Act, are duly marked with a mark defined as the utility mark by any such order.

(4) Where under the said Part I any goods are chargeable at more than one rate, purchase tax shall be chargeable in respect of those goods at the higher or highest of those rates.

(5) In determining the question which of two rates of purchase tax is chargeable under the said Part I in respect of a vehicle, where that question depends on the retail value of the vehicle, the provisions of Part II of the Fourth Schedule to the Finance Act, 1947, shall have effect, but subject to the modification that

the reference to the basic rate in paragraph 2 of the said Part II (which assumes that the seller by retail has suffered the incidence of tax at the basic rate) shall be taken to be a reference to the lower of the two rates in question.

PART II.
—cont.

21.—(1) The Treasury shall have power by order—

Treasury
orders.

(a) to make any change in the classes of goods which are chargeable goods or to substitute one of the rates of purchase tax provided for by the enactments relating to purchase tax for any other rate as the rate of tax chargeable in respect of goods of any class; and

(b) to amend Part I of the Eighth Schedule to this Act.

The provisions of this section shall be in substitution for the provisions of section twenty of the Finance (No. 2) Act, 1940.

3 & 4 Geo. 6.
c. 48.

(2) The reference to an order made under the said section twenty in subsection (1) of section two of the Finance Act, 1945 (which authorises the definition of a class of goods affected by such an order to be made by reference to any mark the use of which the Board of Trade have power to regulate) shall be construed as a reference to an order made under this section.

9 & 10 Geo. 6.
c. 24.

(3) An order made under this section may be varied or revoked by a subsequent order so made.

(4) The power to make orders under this section shall be exercisable by statutory instrument and any statutory instrument by which the power is exercised shall be laid before the Commons House of Parliament after being made.

(5) Any statutory instrument under this section which extends the incidence or increases the rate of purchase tax shall cease to have effect on the expiration of a period of twenty-eight days from the date on which it is made, unless at some time before the expiration of that period it has been approved by a resolution of the Commons House of Parliament, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period of twenty-eight days as aforesaid no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House is adjourned for more than four days.

(6) Any other statutory instrument under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(7) The provisions of the last four preceding subsections shall apply to orders made by the Treasury under section sixteen of the Finance Act, 1946 (which relates to chargeable processes) in substitution for the provisions of subsection (4) of section twenty of the Finance (No. 2) Act, 1940.

PART II.
—*cont.*
Drugs and
medicines.

22.—(1) The provisions of Part II of the Eighth Schedule to this Act shall have effect for the purposes of the provisions of Part I thereof relating to drugs and medicines, but, notwithstanding anything in the last but one preceding section, goods shall not by reason of complying with the provisions of the said Part II be deemed to have been exempt from tax becoming chargeable before the first day of June, nineteen hundred and forty-eight.

(2) An order made by the Treasury under the last preceding section—

- (a) may vary or revoke the Purchase Tax (No. 1) Order, 1948 (which relates to drugs and medicines); and
- (b) may define any class of drugs or medicines by a reference (either inclusive or exclusive) to any kind of get-up of the goods; and
- (c) may amend Part II of the Eighth Schedule to this Act.

In this subsection, the reference to get-up includes a reference to marking, labelling, packing or any other treatment adopted for identifying goods or presenting goods to the user or consumer.

Extension of
meaning of
manufacture.

23. Without prejudice to the generality of any existing definition in the enactments relating to purchase tax, any treatment of goods which affects the get-up of the goods and which results in the goods becoming chargeable goods or becoming goods in respect of which tax is chargeable at a higher rate shall be deemed for all the purposes of the enactments relating to purchase tax to be the application of a process in the course of making the goods.

In this section, the reference to get-up includes a reference to marking, labelling, packing or any other treatment adopted for identifying goods or presenting goods to the user or consumer.

Purchases, etc.,
affected by,
and effect on
existing
contracts of,
change in tax.

24.—(1) Where by or under any provision of any Act (including this Part of this Act) any change is made in the classes of goods which are chargeable goods, or which may be the subject of a chargeable process, or in the rate at which purchase tax is chargeable in respect of any goods, that change shall have effect, and shall be deemed to have had effect—

- (a) in relation to a purchase of goods delivered under the purchase after the time as from which the change takes effect notwithstanding that the purchase was made before that time;
- (b) in relation to the application of a chargeable process completed after that time notwithstanding that the process was applied in pursuance of a contract made before that time.

(2) Subsections (1) and (2) of section ten of the Finance Act, 1901 (which provide for adjustments between buyer and seller under contracts affected by a change in customs or excise duties) shall apply as respects changes in the classes of goods which are chargeable goods, or which may be the subject of a chargeable process, and in the rates at which purchase tax is chargeable in respect of goods of any class, as they apply to duties of customs or excise, but subject to the modification that, in relation to the application of a chargeable process under any contract not being a purchase,—

- (a) the contract shall be treated as a contract of sale ;
- (b) the goods resulting from the application of the process shall be treated as having been bought under the contract ; and
- (c) the party to whose order the process is applied and the party who applies the process to his order shall be treated respectively as the buyer and the seller.

This subsection shall have effect in substitution for section twenty-eight of the Finance (No. 2) Act, 1940, and section twenty-three of the Finance Act, 1946.

PART III.

INCOME TAX (CHARGE OF TAX AND MISCELLANEOUS).

25.—(1) Income tax for the year 1948-49 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. Charge of income tax for 1948-49.

(2) Subject to the provisions of any Act of the present Session relating to gas or agriculture, and to any enactment which has effect only after the end of the year 1947-48, all such enactments as had effect with respect to the income tax charged for that year, other than enactments which by their terms relate only to tax for that year, shall have effect with respect to the income tax charged for the year 1948-49.

26. Income tax for the year 1947-48 shall be charged, in the case of an individual whose total income exceeded two thousand pounds, at the same higher rates in respect of the excess over two thousand pounds as were charged for the year 1946-47. Higher rates of income tax for 1947-48.

27.—(1) Section nineteen of the Finance Act, 1935 (which, as amended by subsequent enactments, exempts from tax incomes not exceeding one hundred and twenty pounds and limits the Alteration of certain reliefs.

PART III.
—*cont.*

tax on incomes exceeding one hundred and twenty pounds but less than one hundred and thirty-five pounds to one quarter of the excess) shall have effect as if—

- (a) the words "one hundred and thirty-five pounds" were substituted for the words "one hundred and twenty pounds" in both places where they occur; and
- (b) the words "one hundred and sixty pounds" were substituted for the words "one hundred and thirty-five pounds"; and
- (c) the words "three-tenths" were substituted for the words "one-quarter".

15 & 16 Geo. 5.
c. 36.

(2) 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-sixth of the amount of earned income but not exceeding two 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-sixth of his income) shall have effect as if—

- (a) the words "one-fifth" were substituted for the words "one-sixth" in each of those subsections; and
- (b) the words "four hundred pounds" were substituted in the said subsection (1) for the words "two hundred and fifty pounds"; and
- (c) the words "five-eighths" were substituted in the said subsection (2) for the words "three-quarters".

(3) 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 five-sixths of the earned income of the claimant's wife) shall have effect as if the words "four-fifths" were substituted for the words "five-sixths".

(4) The additional relief afforded by this section for the year 1948-49 shall not be deemed to have affected the amount of tax deductible or repayable before the sixth day of July, nineteen hundred and forty-eight.

Reduced
rate relief.

28.—(1) In subsection (2) of section forty of the Finance Act, 1927 (which, as amended by section seventeen of the Finance (No. 2) Act, 1945, provides, in effect, for tax being charged at one-third of the standard rate on not more than fifty pounds of an individual's income and at two-thirds of the standard rate on

not more than another seventy-five pounds thereof) for the words "seventy-five pounds" there shall be substituted the words "two hundred pounds".

PART III.
—cont.

(2) The said subsection (2) (as amended by subsection (1) of this section) shall, where the income of an individual includes both—

- (a) earned income of his wife ; and
- (b) other income available for relief under the said subsection (2),

have effect subject to the following provisions of this section.

(3) Where there is earned income of the wife available for relief under the said subsection (2), references to fifty pounds plus the amount of the earned income so available, or to one hundred pounds, whichever is the smaller, shall be substituted in the said subsection (2) for the references to fifty pounds :

Provided that where the other income available for relief under the said subsection (2) falls short of fifty pounds, the amount references to which are to be substituted as aforesaid under this subsection shall be diminished by the amount of the deficiency.

(4) Where the earned income of the wife available for relief under the said subsection (2) exceeds fifty pounds, a reference to two hundred pounds plus the amount of the excess or to four hundred pounds, whichever is the smaller, shall be substituted in the said subsection (2) for the reference to two hundred pounds :

Provided that where the other income available for relief under the said subsection (2) does not exceed fifty pounds, this subsection shall not apply, and where the said other income exceeds fifty pounds and falls short of two hundred and fifty pounds, the amount references to which are to be substituted as aforesaid under this subsection shall be diminished by the amount of the deficiency.

(5) In this section, the expression "earned income", in relation to a wife, means earned income treated as such for the purposes of subsection (2) of section eighteen of the Finance Act, 1920 (which provides a special relief for wife's earned income).

(6) References in this section to the earned income of the wife available for relief under subsection (2) of the said section forty shall be construed as references to her earned income less—

- (a) so much of any amount which falls to be deducted under any of the provisions of the Income Tax Acts as could not have been deducted but for the existence of the earned income of the wife ; and
- (b) so much of the amounts tax on which falls to be deducted under subsection (1) of the said section forty as could

PART III.
—*cont.*

not have been taken into account but for the existence of the earned income of the wife ; and

- (c) any deduction allowable under section twenty-seven of the Finance Act, 1946 (which allows relief for national insurance contributions) in respect of contributions paid by the wife as an insured person.

(7) References in this section to the income available for relief under subsection (2) of the said section forty, other than earned income of the wife, shall be construed as references to the man's total income other than earned income of the wife, less the total of the amounts tax on which falls to be deducted under subsection (1) of the said section forty, other than so much of those amounts as falls to be deducted from the earned income of the wife in ascertaining the earned income of the wife available for relief under subsection (2) of the said section forty.

(8) The additional relief afforded by this section for the year 1948-49 shall not be deemed to have affected the amount of tax deductible or repayable before the sixth day of July, nineteen hundred and forty-eight.

**Life insurance
premiums.**

29.—(1) This section applies to premiums payable on policies of insurance or contracts for deferred annuities, being policies or contracts made after the twenty-second day of June, nineteen hundred and sixteen.

**8 & 9 Geo. 5.
c. 40.**

(2) For the purposes of section thirty-two of the Income Tax Act, 1918 (which provides a relief for life insurance premiums and other payments at a rate depending in part on the total income of the claimant) the appropriate rate shall, in relation to premiums to which this section applies, be two-fifths of the standard rate of tax, irrespective of the total income of the claimant.

(3) If, in any year of assessment, the total premiums to which this section applies in respect of which relief falls to be granted under the said section thirty-two do not exceed twenty-five pounds, the relief to be granted under the said section thirty-two in respect of those premiums shall, instead of being a deduction of tax at the appropriate rate on the amount of the premiums, be a deduction of tax at the standard rate on ten pounds or on the full amount of the premiums, whichever is the less.

(4) Subject to the provisions of this subsection, the relief to be given under the said section thirty-two in respect of premiums to which this section applies shall, for all the purposes of the Income Tax Acts, be deemed to be a deduction of tax under subsection (1) of section forty of the Finance Act, 1927 (which provides for certain reliefs by way of deduction from tax) :

Provided that—

PART III.
—cont.

- (a) any reference in this Part of this Act, or in any of the other provisions of the Income Tax Acts, to an amount tax on which falls to be deducted under the said subsection (x) shall, in relation to a premium to which this section applies on which a deduction falls to be made at two-fifths of the standard rate, be construed as a reference to two-fifths of the amount of that premium ; and
- (b) nothing in this subsection affects the mode in which the appropriate rate of United Kingdom income tax is to be calculated under sub-paragraph (v) of paragraph 2 of Part II of the Fifth Schedule to the Finance Act, 1927, for the purposes of relief for Dominion income tax.

(5) In this section, references to the standard rate of tax are references to the actual standard rate, whether or not that rate exceeds seven shillings in the pound.

(6) The following amendments (being amendments consequential on the preceding provisions of this section) shall be made in the enactments hereinafter mentioned, that is to say—

- (a) subsections (2) and (7) of section thirty-two of the Income Tax Act, 1918, and subsection (x) of section nine of the Finance (No. 2) Act, 1940, shall not apply in relation to premiums to which this section applies ; and
- (b) the references to premiums in subsection (9) of the said section thirty-two and in subsection (2) of the said section nine shall not include references to premiums to which this section applies ; and
- (c) sub-paragraph (i) of paragraph (e) of subsection (3) of the said section thirty-two shall cease to have effect.

(7) This section shall have effect with respect to the year 1949-50 and all subsequent years of assessment.

30.—(1) Subject to the provisions of this section, no assessment under Schedule E need be made on a person in respect of his emoluments for the year 1949-50 or any subsequent year of assessment if the total net tax deducted from his emoluments in the year in question is the same as it would have been if all the relevant circumstances had been known to all parties throughout the year, and deductions and repayments had, throughout the year, been made accordingly, and had been so made by reference to cumulative tax tables. Formal assessments under Schedule E to be unnecessary in certain cases.

(2) Nothing in this section shall be construed as preventing an assessment being made on a person in respect of his emoluments, and, without prejudice to the generality of the preceding

PART III.
—cont.

provisions of this subsection, an assessment shall be made in respect of the emoluments of a person for any year of assessment if—

- (a) the person assessable requires an assessment to be made by notice in writing given to the surveyor within five years from the end of the year of assessment ; or
- (b) the emoluments paid in the year are not the same in amount as the emoluments which would fall to be treated as the emoluments for the year ; or
- (c) there is reason to suppose that the emoluments would, if assessed, fall to be taken into account in computing the total income for surtax purposes of a person who is liable to surtax or would be so liable if an assessment were made in respect of the emoluments.

(3) In this section—

- (a) the expression “ emoluments ” means emoluments assessable to income tax under Schedule E ;
- (b) the expression “ cumulative tax tables ” means tax tables prepared under section two of the Income Tax (Employments) Act, 1943, which are so framed as to require the tax which is to be deducted or repaid on the occasion of each payment made in the year to be ascertained by reference to a total of emoluments paid in the year up to the time of the making of that payment ;
- (c) references to the total net tax deducted shall be construed as references to the total tax deducted during the year by virtue of regulations made under the Income Tax (Employments) Act, 1943, less any tax repaid by virtue of any such regulations.

6 & 7 Geo. 6.
c. 45.

Farming, and
other profits
arising from
land.

31.—(1) As respects income tax for the year 1949–50 and all subsequent years of assessment—

- (a) all farming in the United Kingdom shall be treated as the carrying on of a trade or, as the case may be, of a part of a trade, and the profits or gains thereof charged to tax under Case I of Schedule D accordingly, and section eleven of the Finance Act, 1941 (which, as amended by section twenty-eight of the Finance Act, 1942, exempts from assessment under Schedule D certain farming carried on by individuals or partnerships on land of an annual value not exceeding one hundred pounds) shall not have effect ;
- (b) the occupation of land in the United Kingdom for any purpose other than farming shall, if the land is managed on a commercial basis and with a view to the realisation of profits, be treated as the carrying on of a trade or,

4 & 5 Geo. 6.
c. 30.
5 & 6 Geo. 6.
c. 21.

as the case may be, of a part of a trade, and the profits or gains thereof charged to tax under Case I of Schedule D accordingly ;

- (c) no land occupied for the purpose of carrying on a trade, profession or vocation shall be charged under Schedule B;
- (d) profits or gains arising from payments for any easement over or right to use any land in the United Kingdom made to the person who occupies that land, whether he occupies it for the purpose of a trade, profession or vocation or otherwise, shall, except so far as the payments are chargeable to tax under section twenty-one of the Finance Act, 1934, be taken into account in computing the profits of the trade, profession or vocation or as annual profits or gains chargeable under Case VI of Schedule D, as the case may be ; and
- (e) the assessable value of land in relation to tax under Schedule B shall in all cases be an amount equal to one-third of the annual value :

Provided that—

- (i) where land which would but for the provisions of this section be assessable under Schedule B is occupied for the purpose of carrying on a trade, profession or vocation for part only of the year of assessment, tax shall be charged under Schedule B on that land for that year on so much of the assessable value of that land as is apportionable to the remaining part of that year ;
- (ii) nothing in this subsection shall affect the taxation of woodlands which are managed on a commercial basis and with a view to the realisation of profits ;
- (iii) where land is assessed to tax under Schedule B, the total amount on which assessments are made under Case VI of Schedule D by virtue of paragraph (d) of this subsection in respect of profits or gains arising in the year of assessment from payments to any person for easements over or rights to use that land shall be limited to the excess, if any, of the total amount of those profits or gains over the assessable value of that land or, as the case may be, over so much of the assessable value thereof as is apportionable to the part of the year for which that person occupies that land.

(2) Where, for any of the purposes of the proviso to subsection (1) of this section, the assessable value of any land falls to be apportioned to a part of a year, the apportionment shall be made by reference to the number of months or parts of a month in that part of the year.

(3) In this and the next succeeding section, the expression “ land ” includes tenements, hereditaments and heritages.

PART III.
—*cont.*
Transitional
provisions as
to farming, etc.

32.—(1) For the purposes of income tax for the year 1949–50 and subsequent years of assessment, the question whether or not a trade has been discontinued or a new trade set up or commenced shall not, in the case of any trade the profits or gains of which arise or accrue in whole or in part from the occupation of land in the United Kingdom, be affected by the fact that, for particular years of assessment, the person or partnership or body of persons carrying on the trade is not or was not chargeable under Schedule D in respect of all or any of the profits thereof, and the period of computation for the year 1949–50 or any subsequent year of assessment may, in the case of any such trade as aforesaid, be a period falling wholly or partly within a year or years of assessment for which the person, partnership or body of persons carrying on the trade was not chargeable under that Schedule.

In this subsection, the expression “period of computation” means, in relation to a year of assessment, the period by reference to the profits or gains of which the profits or gains arising or accruing from a trade are to be computed for that year.

(2) In considering, in relation to any trade the profits or gains of which arise or accrue in whole or in part from the occupation of land in the United Kingdom, whether any, and if so what, relief may be given to any person for the year 1949–50 or any subsequent year of assessment under section thirty-three of the Finance Act, 1926, or section twenty-nine of the Finance Act, 1927 (which relate to the carrying forward of losses), there may be carried forward to the year 1949–50 and subsequent years of assessment from the years of assessment preceding the year 1949–50 the amount (if any) which would have fallen to be carried forward to those years respectively if the last preceding section had been in force in respect of all those preceding years and that person and every partnership of which he was a member had been charged under Schedule D accordingly and had been given in those preceding years all the relief which he or they could have been given under those sections if he or they had been so chargeable.

(3) Where, on a claim made for the purposes of this subsection within twelve months from the end of the year 1949–50, it is proved, as respects a trade carried on by an individual or partnership of individuals in that year the profits or gains of which are chargeable to income tax under Schedule D by virtue only of the last preceding section, that the actual profits or gains from that trade in that year of that individual or partnership of individuals are less than the amount of the profits or gains by reference to which he or they are chargeable under the last preceding section for that year—

(a) that individual or partnership of individuals shall be entitled to such relief from income tax, other than sur-tax,

as will reduce the amount of income tax, other than sur-tax, payable to the amount which would have been payable if he or they had been charged by reference to the actual profits or gains for that year ;

PART III.
—cont.

- (b) the individual, or in the case of a partnership of individuals, each of the individuals, shall be entitled to such relief from the sur-tax, if any, payable by him for that year as will reduce the amount of sur-tax so payable to the amount which would have been payable if the individual, or, as the case may be, the partnership, had been charged as aforesaid.

33. Subsection (1) of section twenty-four of the Finance Act, 1947 (which allows relief for certain capital expenditure on rehabilitation) shall have effect, and be deemed always to have had effect, as if for the proviso thereto (which, in certain cases, extends, till not later than the end of the year nineteen hundred and forty-nine, the period within which the expenditure must have been incurred if the relief is to be given) there were substituted the following proviso—

Extension of
time in relation
to relief for
capital
expenditure on
rehabilitation.

“ Provided that if the person carrying on the trade complies with either of the following conditions, that is to say, either—

- (a) that he produces to the Commissioners of Inland Revenue before the end of March, nineteen hundred and forty-eight, or such later date as they may allow, particulars of work required to be done as at the thirty-first day of December, nineteen hundred and forty-six, and satisfies them that that work was not completed before the end of the year nineteen hundred and forty-seven ; or
- (b) that he furnishes to the said Commissioners before the said end of March, or such later date as they may allow, a preliminary statement in respect of any such work, setting out such information as is available to him as to the position in respect thereof, and, before the end of March, nineteen hundred and forty-nine, or such later date as the said Commissioners may allow, produces to them the particulars, and satisfies them as to the matters, specified in paragraph (a) of this proviso,

this subsection shall have effect, in relation to any rehabilitation costs incurred in doing that work, 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 March, nineteen hundred and fifty-two.”

PART III.

—cont.

Remission of balancing charges and other provisions, in case of certain undertakings absorbed under nationalisation schemes.

7 & 8 Geo. 6.
c. 23.

34.—(1) The provisions of this section shall have effect where—

- (a) under any statutory provisions to which this section applies, property is transferred to a Commission, Authority, Board, body or person ; and
- (b) under the statutory provisions in question, the liability of the transferor arising from any balancing charge falling to be made on the occasion of the transfer becomes a liability of the transferee.

(2) The transfer shall be treated for income tax purposes as a sale of property to which paragraph (a) of subsection (1) of section fifty-nine of the Income Tax Act, 1945, applies and as if the parties to the sale had given notice of election under subsection (4) of that section.

(3) Where the trade carried on by the transferor is permanently discontinued at the date of the transfer and either—

- (a) in the year of assessment in or at the end of which the transfer takes place, a deduction could have been allowed in charging the profits or gains of the trade under Rule 6 of the Rules applicable to Cases I and II of Schedule D or under that Rule as extended by section thirty of the Finance Act, 1944, or by section fifty-five of the Income Tax Act, 1945, but for an insufficiency of profits or gains against which to allow the deduction ; or
- (b) in that and previous years taken together, relief or greater relief could have been given by way of deduction or set off under section thirty-three of the Finance Act, 1926, or under that section as extended by any subsequent enactment, but for the allowance, in those years, of any such deductions as are mentioned in paragraph (a) of this subsection,

the deduction, so far as it could have been but was not allowed, or, as the case may be, the amount or additional amount which could have been deducted and set off but for the deductions aforesaid, shall, in charging the profits or gains of the trade of the transferee for the year of assessment in or at the beginning of which the transfer takes place and all subsequent years of assessment, be added to and deemed to form part of the deduction falling to be allowed under paragraph (1) of the said Rule 6 in charging the profits or gains of that trade for the year in or at the beginning of which the transfer takes place.

(4) In this section, any reference to the transferee shall, in the case of a transfer to an Area Board as defined in the Electricity Act, 1947, be construed as a reference to the British Electricity Authority.

10 & 11 Geo. 6.
c. 54.

(5) In this section the expression “ statutory provision ” means a provision contained in, or in any order or scheme made or issued under, any Act, and the statutory provisions to which

this section applies are statutory provisions contained in the Transport Act, 1947, the Electricity Act, 1947, or any Act of the present Session relating to gas, or in any order or scheme made or issued under any of those Acts, and any other statutory provisions for giving effect to any scheme for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control.

PART III.
—*cont.*
10 & 11 Geo. 6.
c. 49.

(6) This section shall be deemed always to have had effect.

35.—(1) The question whether any and if so what balancing allowance or balancing charge falls to be made to or on the National Coal Board on the occasion of the transfer to the British Transport Commission under section twenty-nine of the Transport Act, 1947, of any railway wagons which the said Board acquired under the Coal Industry Nationalisation Act, 1946, shall be determined as if section twenty-nine of the Finance Act, 1947, and the Seventh Schedule to that Act, had not been passed.

Railway wagons of National Coal Board.
9 & 10 Geo. 6.
c. 59.

(2) This section shall be deemed always to have had effect.

36. In subsections (1) and (2) of section thirty-nine of the Income Tax Act, 1918 (which grants certain exemptions from income tax to registered friendly societies and trade unions precluded by Act of Parliament or by their rules from assuring to any person a sum exceeding three hundred pounds by way of gross sum or fifty-two pounds a year by way of annuity) for the words "three hundred pounds" there shall be substituted the words "five hundred pounds" and for the words "fifty-two pounds" there shall be substituted the words "one hundred and four pounds".

Widening of exemption for friendly societies and trade unions.

37. The agreement made on the twenty-first day of July, nineteen hundred and forty-seven, between the United Kingdom Government and the Eire Government amending the agreements set out in the Second Schedule to the Finance Act, 1926, and the Fourth Schedule to the Finance Act, 1928 (which first-mentioned agreement is set out in the Ninth Schedule to this Act) is hereby confirmed, and, subject to confirmation by the Oireachtas of Eire, shall have effect accordingly.

Amendment of agreement on double taxation in respect of British income tax and Eire income tax.

PART IV.

INCOME TAX (EXPENSES ALLOWANCES, ETC.).

38.—(1) Subject to the provisions of this Part of this Act, any sum paid in respect of expenses by a body corporate to any of its directors or to any person employed by it in an employment to which this Part of this Act applies shall, if not otherwise chargeable to income tax as income of that director or employee, be treated

Expenses allowances, etc.

PART IV.
—*cont.*

for the purposes of Rule 1 of the Rules applicable to Schedule E as a perquisite of the office or employment of that director or employee and included in the emoluments thereof assessable to income tax accordingly :

Provided that nothing in this subsection shall prevent a claim for a deduction being made under Rule 9 of the said Rules in respect of any money expended wholly, exclusively and necessarily in performing the duties of the office or employment.

2 & 3 Geo. 6.
c. 41.

(2) In this section, and, in relation to any director or person employed in an employment to which this Part of this Act applies, in section nineteen of the Finance Act, 1939 (which requires employers in certain cases to give particulars of payments to directors and employed persons in respect of expenses), any reference to a sum paid in respect of expenses includes a reference to any sum put by a body corporate at the disposal of a director or employee and paid away by him.

Benefits in
kind to be
taken into
account.

39.—(1) Subject to the following provisions of this Part of this Act, where a body corporate incurs expense in or in connection with the provision, for any of its directors or for any person employed by it in an employment to which this Part of this Act applies, of living or other accommodation, of entertainment, of domestic or other services or of other benefits or facilities of whatsoever nature, and, apart from this section, the expense would not be chargeable to income tax as income of the director or employee, Rules 1 and 9 of the Rules applicable to Schedule E and section one hundred and five of the Income Tax Act, 1918 (which, as extended by section nineteen of the Finance Act, 1939, requires employers in certain cases to give particulars of sums paid to directors and employed persons in respect of expenses) shall have effect in relation to so much of the said expense as is not made good to the body corporate by the director or employee as if the expense had been incurred by the director or employee and the amount thereof had been refunded to him by the body corporate by means of a payment in respect of expenses.

(2) The provisions of subsection (1) of this section shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee, in any of its business premises, of any accommodation, supplies or services provided for the director or employee himself and used by him solely in performing the duties of his office or employment.

(3) The provisions of subsection (1) of this section shall not apply to expense incurred by the body corporate in or in connection with the provision of living accommodation for an employee in part of any of its business premises which include living accommodation if the employee is, for the purpose of

enabling him properly to perform his duties, required by the terms of his employment to reside in the accommodation and either—

PART IV.
—cont.

- (a) the accommodation is provided in accordance with a practice which, since before the beginning of the twenty years ending with the passing of this Act, has commonly prevailed in trades of the class in question as respects employees of the class in question ; or
- (b) it is necessary, in the case of trades of the class in question, that employees of the class in question should reside on premises of the class in question :

Provided that this subsection shall not apply where the employee is a director of the body corporate in question or of any other body corporate over which that body corporate has control or which has control over that body corporate or which is under the control of a person who also has control over that body corporate.

(4) The provisions of subsection (1) of this section shall not apply to expense incurred by the body corporate in or in connection with the provision of meals in any canteen in which meals are provided for the staff generally.

(5) The provisions of subsection (1) of this section shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee himself, or for his spouse, children or dependants, of any pension, annuity, lump sum, gratuity or other like benefit to be given on his death or retirement.

(6) Any reference in this section to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter.

40.—(1) Any expense incurred by a body corporate in the acquisition or production of an asset which remains its own property shall be left out of account for the purposes of the last preceding section. Valuation of benefits in kind.

(2) Where the making of any such provision as is mentioned in subsection (1) of the last preceding section takes the form of a transfer of the property in any asset of the body corporate, and, since the acquisition or production thereof by the body corporate, the asset has been used or has depreciated, the body corporate shall be deemed to have incurred in the making of the said provision expense equal to the value of the asset at the time of the transfer.

(3) Where a body corporate is assessable under Schedule A in respect of any premises the whole or any part of which is made available by it as living or other accommodation for any of its

PART IV.
—cont.

directors or employees, and either the body corporate pays no rent in respect of the premises or the annual amount of the rent paid by it is less than the amount of the assessment on the premises as reduced for the purposes of collection, the provisions of the last preceding section shall have effect as if the body corporate paid in respect of the premises an annual rent equal to the amount of the assessment as so reduced.

(4) Where an asset which continues to belong to the body corporate is used wholly or partly in the making of any such provision as is mentioned in subsection (1) of the last preceding section, and the asset is not premises in respect of which the body corporate is assessable under Schedule A, the body corporate shall be deemed for the purposes of the last preceding section to incur (in addition to any other expense incurred by it in connection with the asset, not being expense to which subsection (1) of this section applies) annual expense in connection therewith of an amount equal to the annual value of the use of the asset :

Provided that where any sum by way of rent or hire is payable by the body corporate in respect of the asset—

- (a) if the annual amount of the rent or hire is equal to or greater than the annual value of the use of the asset, this subsection shall not apply ; and
- (b) if the annual amount of the rent or hire is less than the annual value of the use of the asset, the rent or hire shall be left out of account for the purposes of the last preceding section.

(5) Any reference in this section to a body corporate which is assessable under Schedule A in respect of any premises shall be deemed to include a reference to a body corporate which would be so assessable if a state of affairs which subsists during any part of the year had subsisted for the whole of the year.

Meaning of
"director",
"employ-
ment" and
"employment
to which this
Part of this
Act applies".

41.—(1) In this Part of this Act, the expression "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 in accordance with whose directions or instructions the directors of a body corporate, defined in

accordance with the preceding provisions of this subsection, are accustomed to act :

PART IV.
—cont.

Provided that a person shall not, within the meaning of this subsection, be deemed to be a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act by reason only that the said directors act on advice given by him in a professional capacity.

(2) In this Part of this Act, the expression "employment" means an employment such that any emoluments thereof would fall to be assessed under Schedule E, and references to persons employed by, or employees of, a body corporate include any person who takes part in the management of the affairs of the body corporate and is not a director thereof.

(3) Subject to the provisions of this and the two next succeeding subsections, the employments to which this Part of this Act applies are employments the emoluments of which, calculated on the basis that they are employments to which this Part of this Act applies, and without any deduction being made under Rule 9 of the Rules applicable to Schedule E in respect of money expended in performing the duties thereof, are at the rate of two thousand pounds a year or more :

Provided that—

- (a) where a person is employed in several employments by the same body corporate, and the total of the emoluments of those employments, calculated as aforesaid, is at the rate of two thousand pounds a year or more, all those employments shall be treated as employments to which this Part of this Act applies ; and
- (b) where a person is a director of a body corporate, all employments in which he is employed by the body corporate shall be treated as employments to which this Part of this Act applies.

(4) All the directors of, and persons employed by, a body corporate over which another body corporate has control shall be treated for the purposes of the proviso to the last preceding subsection (but not for any other purpose) as if they were directors of, or, as the case may be, as if the employment were an employment by, that other body corporate.

(5) Notwithstanding anything in the preceding provisions of this section, no employment of a person by a body corporate at a school or other educational establishment carried on by that body corporate shall be an employment to which this Part of this Act applies or be taken into account in determining whether any other employment is an employment to which this Part of this Act applies.

PART IV.
—cont.
Saving for
certain
payments and
expenses.

42. If a body corporate furnishes to the surveyor a statement of the cases and the circumstances in which payments of a particular nature are made or things of a particular nature are provided for any of its directors or employees and the surveyor is satisfied that no additional tax would fall to be paid if this Part of this Act were to apply in relation to payments made or things provided by the body corporate in accordance with the statement, he shall notify the body corporate accordingly and, where such a notification is given, this Part of this Act shall not apply in relation to payments made or things provided by the body corporate in accordance with the statement :

Provided that the surveyor may, if in his opinion there is reason so to do, by notice in writing served on the body corporate, revoke any such notification, either as from the date of the making of the notification or as from such later date as may be specified in the notice, and thereupon all such tax shall become chargeable, and all such returns shall be made by the body corporate and by the directors or employees in question, as would have been chargeable or would have had to have been made in the first instance if the notification had never been given, or, as the case may be, if it had ceased to have effect on the specified date.

Additional
provisions
as to
information.

43.—(1) In subsection (2) of section one hundred and five of the Income Tax Act, 1918 (which subsection declares, amongst other things, that a director of a company, or person engaged in the management of a company, shall be deemed for the purposes of returns as to remuneration of employees to be a person employed), the references to a company shall be deemed to include references to any body corporate and the expression "director" shall have the same meaning as in this Part of this Act.

(2) Where, for the purposes of a return under the said section one hundred and five, a body corporate apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters, the return shall contain a statement that the sum included in the return is the result of such an apportionment and the body corporate, if required so to do by notice from the surveyor, shall prepare and deliver to the surveyor, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which and the grounds on which the apportionment has been made.

(3) The provisions of the Income Tax Acts relating to returns under the said section one hundred and five shall apply in relation to any return required under subsection (2) of this section.

44. This Part of this Act shall not apply in relation to any body corporate established for charitable purposes only, or to any other body corporate unless it carries on a trade or its functions consist wholly or mainly in the holding of investments or other property, or, except in relation to persons employed by it in an employment to which this Part of this Act applies wholly or mainly for the purposes of a trade carried on by it, to any local authority as defined for the purposes of section twenty-one of the Finance (No. 2) Act, 1945.

PART IV.
—cont.
Charities and
non-trading
bodies.

9 & 10 Geo. 6.
c. 13.

45.—(1) In the preceding provisions of this Part of this Act, the expression “business premises,” in relation to a body corporate, includes all premises occupied by that body for the purpose of any trade carried on by it:

Interpretation
of previous
provisions
of Part IV.

Provided that, except where the reference is expressly to premises which include living accommodation, the said expression does not include so much of any such premises as aforesaid as is used wholly or mainly as living accommodation for any of the directors of the body corporate or for any persons employed by the body corporate in any employment to which this Part of this Act applies.

(2) Any reference in the preceding provisions of this Part of this Act to anything provided for a director or employee shall, unless the reference is expressly to something provided for the director or employee himself, be construed as including a reference to anything provided for the spouse, family, servants, dependants or guests of that director or employee, and the reference in the proviso to subsection (1) of this section to living accommodation for directors or employees shall be construed accordingly.

(3) In the preceding provisions of this Part of this Act, the expression “control” in relation to a body corporate has the meaning assigned to it by section sixty-eight of the Income Tax Act, 1945.

8 & 9 Geo. 6.
c. 32.

46.—(1) The preceding provisions of this Part of this Act shall apply in relation to unincorporated societies and other bodies as they apply in relation to bodies corporate, and, in connection with the said preceding provisions, the definition of the expression “control” in section sixty-eight of the Income Tax Act, 1945, shall, with the necessary adaptations, also so apply.

Unincorporated
bodies
and
partnerships.

(2) Subject to the provisions of this subsection, the preceding provisions of this Part of this Act shall apply in relation to any partnership carrying on any trade, profession or vocation as they would apply in relation to a body corporate carrying on a trade, if so much thereof as relates to directors of the body corporate or persons taking part in the management of the affairs of the body corporate were omitted:

PART IV.
—cont.

Provided that—

- (a) the expression “ control ” has, in relation to a partnership, the meaning assigned to it by section sixty-eight of the Income Tax Act, 1945, in relation to a partnership ;
- (b) where such a partnership as aforesaid has control over a body corporate to which this Part of this Act applies,—
- (i) any employment of any director of that body corporate by the partnership shall be an employment to which this Part of this Act applies ; and
- (ii) all the employments of any person who is employed both by the partnership and by the body corporate (being employments by the partnership or the body corporate) shall, for the purpose of seeing whether those employments or any of them are employments to which this Part of this Act applies, be treated as if they were employments by the body corporate.
- (3) The provisions of the last preceding subsection shall apply in relation to individuals as they apply in relation to partnerships :
- Provided that nothing in this subsection shall be construed as requiring an individual to be treated in any circumstances as under the control of another person.

PART V.

THE SPECIAL CONTRIBUTION.

Charge, and
amount, of
contribution.

47.—(1) In the case of individuals whose total income for the year 1947–48 exceeded two thousand pounds and whose aggregate investment income for that year exceeded two hundred and fifty pounds, there shall subject to the provisions of this Part of this Act be charged a special contribution (in this Part of this Act referred to as “ contribution ”) of an amount determined in accordance with the following Table :—

Table.

For every pound of—	s.	d.
the first two hundred and fifty pounds of the excess of an individual's aggregate investment income for the said year over two hundred and fifty pounds	2	0
the next five hundred pounds of the said excess	4	0
the next thousand pounds of the said excess	6	0
the next three thousand pounds of the said excess	8	0
the remainder of the said excess	10	0

(2) Contribution shall not in the case of any individual exceed the amount by which his total income for the said year exceeded two thousand pounds.

(3) Contribution shall not be charged in the case of an individual who in the year 1947-48 was not domiciled in the United Kingdom, unless he was in that year resident therein and had been ordinarily resident therein throughout the period of ten years ending with the year 1947-48.

(4) Subject to the provisions of this Part of this Act, contribution shall not be charged in the case of an individual who died before the end of the year 1947-48.

(5) Subject to the provisions of this Part of this Act and of regulations thereunder, contribution shall be charged by assessment on the individual by reference to whose income it is charged, and shall be payable by that individual.

(6) Contribution shall be payable on or before the first day of January, nineteen hundred and forty-nine, so however that contribution included in an assessment which in accordance with regulations under this Part of this Act is signed and allowed on or after that day shall be deemed to be due and payable on the day next following the day on which the assessment is signed and allowed.

(7) Where an individual who could be assessed to contribution dies before the assessment is made, the assessment may be made on his personal representative; and the provisions of this Part of this Act as to individuals assessed or liable to contribution or by whom contribution is payable shall apply accordingly with the necessary modifications.

48. Subject to the provisions of this Part of this Act, income from any source and total income shall be ascertained for the purposes of this Part of this Act as they are ascertained for the purposes of sur-tax; and subject as aforesaid income shall be treated for the purposes of this Part of this Act as income of an individual if it would be so treated for the purposes of surtax.

Ascertainment
of income
and total
income.

49.—(1) Subject to the provisions of this section and of the Tenth Schedule to this Act, in this Part of this Act the expression "investment income" means income from any source other than a source of earned income.

Meaning of
"investment
income."

(2) The following shall not in any case be treated as investment income, that is to say—

(a) income from investments (including land) which falls to be taken into account as a receipt in computing, in

PART V.
—cont.

accordance with the provisions of the Income Tax Acts in that behalf, the profits or gains of a trade, profession or vocation, or which would fall so to be taken into account but for the fact that it has been subjected to tax under other provisions of those Acts ;

(b) income arising to persons carrying on a trade, profession or vocation from property occupied and used by them for the purposes thereof, or, where the property is so occupied and used as to part only,—

(i) so much of the income as is equivalent to the deduction allowable in respect of the property under paragraph (c) of Rule 3 of the Rules applicable to Cases I and II of Schedule D, or

(ii) if the circumstances are such that the said paragraph (c) does not apply, a due proportion of the income ;

(c) any other income arising from a trade, profession or vocation carried on by an individual otherwise than in partnership, not being income specified in subsection (3) of this section.

(3) The following shall in all cases be treated as investment income, that is to say, income from investments (including land) held by or on behalf of the persons carrying on or exercising a trade, profession or vocation, not being income falling within paragraphs (a) or (b) of the last foregoing subsection.

Ascertainment
of aggregate
investment
income.

50.—(1) Subject to the provisions of this Part of this Act, the aggregate investment income of an individual shall be taken for the purposes of this Part of this Act to be the aggregate of his investment income from all sources.

(2) A terminable annuity payable by the National Debt Commissioners or by any other persons in the carrying on of life assurance business shall be disregarded in ascertaining aggregate investment income, whether or not the annuity was originally created in favour of the individual whose income is being ascertained.

(3) Where, in pursuance of any arrangement made in connection with an individual's retirement from a trade, profession or vocation or in case of his death while carrying on or exercising a trade, profession or vocation, payments fall to be made either to the said individual or to any other person, the payments shall be disregarded in ascertaining the aggregate investment income of that individual or such other person.

(4) Any assessment under Schedule B shall be disregarded in ascertaining aggregate investment income.

51.—(1) In ascertaining aggregate investment income for the purposes of this Part of this Act, no deduction shall be allowed in respect of any such payment as is specified in subsection (3) of the last foregoing section.

PART V.
—cont.
Deductions in
ascertaining
aggregate
investment
income.

(2) In ascertaining aggregate investment income for the purposes of this Part of this Act, no deduction shall be allowed in respect of any relief under the provisions of the Income Tax Acts relating to relief in respect of losses.

(3) The amount of any allowance under the Income Tax Act, 1945, available or primarily available against a specified class of income which is deducted from or set off against income of that class for the year 1947-48 shall be allowed as a deduction in ascertaining aggregate investment income for the purposes of this Part of this Act, but in so far only as the amount of the allowance does not exceed the investment income for that year of that class.

(4) Subject to the provisions of this and the next following section, any deduction in respect of rent, interest, annuities or other annual payments allowable in ascertaining the total income of an individual for the year 1947-48 for the purposes of sur-tax shall be allowed as a deduction in ascertaining aggregate investment income for the purposes of this Part of this Act:

Provided that no deduction shall be allowed in ascertaining aggregate investment income in respect of any payments which are allowable as deductions in computing the profits or gains of a trade, profession or vocation.

52.—(1) Periodical payments made—

- (a) in pursuance of an order of any court for the payment of maintenance or in pursuance of an affiliation order, or
(b) in pursuance of a disposition not made for full consideration in money or money's worth,

Certain
payments and
income from
occupation of
property to be
income of
payer or
person entitled
to property.

being payments such as are allowable as deductions in ascertaining for the purposes of sur-tax the total income of the individual making the payment, shall in all cases be treated for the purposes of this Part of this Act as income of the person making the payment and not as income of any other person.

(2) Income from the occupation of property under a revocable licence not granted for valuable consideration shall be treated for the purposes of this Part of this Act as income of the person entitled to occupy the property on the revocation of the licence and not as income of any other person.

PART V.
—cont.
Provisions
where income
under trust
payable out
of capital, etc.

53.—(1) For the purposes of this Part of this Act the investment income of an individual arising under a trust shall be ascertained without regard to any part thereof which is shown to the satisfaction of the Special Commissioners to be attributable to payments duly made otherwise than out of the income of the trust.

(2) For the purposes of this section the income of a trust shall be ascertained without regard to—

(a) income of any description which by the provisions of this Part of this Act in that behalf is required to be disregarded in ascertaining aggregate investment income or to be treated as the income of any other person, or

(b) income from another trust which is shown to the satisfaction of the Special Commissioners to be attributable to payments duly made otherwise than out of the income of that trust,

and otherwise shall be ascertained in like manner as the total income of an individual is ascertained for the purposes of sur-tax, except that no deduction shall be made in respect of any payment made to a beneficiary under the trust or to any person claiming under such a beneficiary.

(3) Nothing in this section shall affect the ascertainment of the amount of an individual's total income.

Payment in
advance, and
interest on
unpaid
contribution.

54.—(1) Payment in or towards discharge of contribution may be made in advance of assessment by any person who under this Part of this Act is liable to pay or bear the contribution or any part thereof.

Any such payment shall be made to the Accountant General of Inland Revenue.

(2) A payment in respect of contribution, made whether before or after the passing of this Act, which is made before the first day of January, nineteen hundred and forty-nine, being a payment of an amount which together with interest thereon at the rate of two per cent. per annum from the date of payment to the said first day of January is equal to the contribution or any part thereof, shall be a discharge of the contribution or that part thereof, as the case may be.

(3) Where contribution, whether already assessed or not, is not paid by the first day of January, nineteen hundred and forty-nine, it shall carry interest at the rate of two per cent. per annum from that date to the date of payment.

(4) The interest payable under subsection (3) of this section shall be paid without any deduction of income tax; and the said interest shall be recoverable in like manner and from the like persons as if it were part of the contribution in respect of which it is payable.

55.—(1) Contribution shall be a debt due to the Crown, and shall be assessed and charged by the Special Commissioners.

PART V.

—cont.

(2) Any return relating to the income of an individual made for the purposes of the Income Tax Acts shall be available to the Special Commissioners for the purposes of this Part of this Act, and where it appears to the Commissioners that the information contained in the return is sufficient to enable them to make an assessment they may make the assessment on that information.

Assessment and collection of contribution, and service of notices.

(3) Where it appears to the Special Commissioners that no return, or no sufficient return, relating to the income of an individual has been made for the purposes of the Income Tax Acts, the Commissioners may make an assessment to the best of their judgment.

(4) The Special Commissioners may, whether an assessment to contribution has been made or not, require any person in whose case it appears to those Commissioners that contribution is or may be payable by him, and that he has in his possession any information relevant to the assessment or recovery of the contribution, to furnish to the Commissioners within such time as they may prescribe, not being less than twenty-eight days, such particulars as they consider necessary for the purposes of the assessment or recovery of the contribution ; and if any person without reasonable excuse fails to furnish within the time prescribed any particulars required under this subsection, he shall be liable to a penalty not exceeding fifty pounds and after judgment has been given for that penalty to a further penalty of the like amount for every day during which the failure continues.

(5) Section two hundred and twenty-two of the Income Tax Act, 1918 (which confers powers to mitigate income-tax penalties, and provides for the application of penalties and other sums) shall apply in relation to penalties recoverable under the last foregoing subsection.

(6) The Commissioners of Inland Revenue may by statutory instrument make regulations with respect to the assessment and collection, and the repayment, of contribution and interest thereon, and subject to the foregoing provisions of this section may by those regulations apply and adapt the provisions of the Income Tax Acts relating to returns and the giving of information and to the assessment and collection of income tax and interest thereon.

Any statutory instrument made under this subsection shall be subject to annulment in pursuance of resolution of either House of Parliament.

(7) Any notice under this Part of this Act may be served by post.

PART V.
—*cont.*
Recovery of
contribution
from
trustees.

56.—(1) Subject to the provisions of this Part of this Act, where investment income of an individual assessed to contribution (in this section referred to as “the contributor”) arose under a trust, then if he has paid the contribution the contributor may recover under subsection (3) of this section such amount as bears to the contribution the same proportion as that investment income bears to his aggregate investment income, ascertained without any such deduction being made as is allowable under subsection (4) of section fifty-one of this Act.

(2) Where investment income of the contributor arose under a trust and either—

- (a) the contributor gives notice in writing to the Special Commissioners requiring that this subsection shall apply; or
- (b) the whole or part of the contribution remains unpaid at the expiration of twenty-eight days after it became due,

the liability of the contributor shall be reduced by the amount specified in the last foregoing subsection, and that amount shall be recoverable under the next following subsection as a debt due to the Crown:

Provided that where at the expiration of twenty-eight days after the contribution became due part, but part only, of the contribution remains unpaid, and that part is less than the amount specified in the last foregoing subsection, the difference shall—

- (a) unless the contributor by notice in writing to the Special Commissioners otherwise requires, be repaid to him by those Commissioners;
 - (b) if he does so require as aforesaid, be treated as having been paid on behalf of the persons from whom recovery may be made under this section or, if recovery may be so made from different persons in different capacities, then on behalf of all or any of them and in such proportions as may be specified in the notice given by the contributor under the last foregoing paragraph.
- (3) Recovery under this subsection may be made—

- (a) where the investment income arose under a trust and the trust continues, from the trustees or, in the case of a settlement within the meaning of the Settled Land Act, 1925, or in Northern Ireland the Settled Land Acts, 1882 to 1890, from the tenant for life;
- (b) where the investment income arose under a trust and the trust has come to an end, from the person who immediately after the trust came to an end was entitled at law to the trust property or fund, or, if more than one person was then so entitled thereto, from the persons

who were then so entitled in proportion to the value of their interests therein :

Provided that where the person or persons entitled as mentioned in this paragraph became so entitled by virtue of a mortgage or charge, or in Scotland by virtue of the exercise of the power of sale contained in a bond and disposition in security, recovery under this subsection shall be made in the proportion aforesaid not from him or them but from the person or persons who would have been entitled at law to the trust property but for the mortgage or charge or the exercise of the power of sale, as the case may be.

For the purposes of this subsection a trust shall be deemed to have come to an end when any person has become entitled thereunder to capital and the trust property has in consequence thereof become vested in that person or an assignee of his interest ; and where part of the trust property has become so vested a proportionate part of the amount recoverable under this subsection shall be recoverable under paragraph (b) and the remainder under paragraph (a) thereof.

(4) Where apart from this subsection a right of recovery under this section would be exercisable in respect of income of the contributor which arose, or is deemed by virtue of this subsection to have arisen, under any trust (hereinafter referred to as "the first trust") and income of the trustees for the year 1947-48 arose under another trust (hereinafter referred to as "the second trust"), not being a foreign trust, the trustees may—

- (a) where the right of recovery would be exercisable by the contributor, by notice in writing given to him ;
- (b) in any other case, by notice in writing given to the Special Commissioners before the assessment has become final against the trustees,

require that, for the purpose of the exercise of the right of recovery in respect of the appropriate part of the said income of the contributor, that part of the income shall be deemed to have arisen under the second trust.

(5) For the purposes of the last foregoing subsection, the appropriate part of the said income of the contributor shall be taken to be that part thereof which bears to the whole thereof the same proportion as the income arising under the second trust to the trustees of the first trust, ascertained in accordance with the provisions of subsection (1) of section fifty-three of this Act, bears to the total income of the first trust, ascertained in accordance with the provisions of subsection (2) of that section.

(6) The contributor shall not be entitled to exercise a right of recovery conferred by this section in respect of the contribution assessed by any assessment unless, not later than six months

PART V.
—cont.

after the date when the contribution so assessed was paid, he has given to the persons against whom under subsection (3) of this section the right of recovery is exercisable notice in writing of his intention to exercise any such right as may be available to him; and trustees who have received a notice under this subsection shall not be entitled under subsection (4) of this section to require that the right of recovery to which the notice relates shall be exercisable as mentioned in that subsection unless not later than one month from the receipt of the notice they have given notice in writing of its receipt to the trustees of the second trust mentioned in that subsection or, in the case of a settlement within the meaning of the Settled Land Act, 1925, or in Northern Ireland the Settled Land Acts, 1882 to 1890, to the tenant for life.

(7) Notwithstanding anything in the foregoing provisions of this section, the following provisions shall have effect as respects foreign trusts:—

- (a) where the trust referred to in subsection (1) or subsection (2) of this section is a foreign trust, the right of recovery therein referred to shall not in any case be exercisable;
- (b) where the contributor has paid the contribution and has exercised or given notice of intention to exercise a right of recovery under this section in respect of income arising under a trust not being a foreign trust, and the persons against whom the right was exercised or exercisable show to the satisfaction of the Special Commissioners that income of the trustees of the first-mentioned trust arose under a trust which is a foreign trust, the Special Commissioners shall repay to the said persons or to the contributor, according as the right of recovery has or has not been exercised, the proper proportion of the amount recovered, or recoverable apart from this paragraph, as the case may be, and if the right of recovery has not been exercised it shall not be exercisable as respects that proportion of the said amount;
- (c) where apart from this paragraph a right of recovery would be exercisable by virtue of subsection (2) of this section in respect of income arising under a trust not being a foreign trust, and the persons against whom the right would be exercisable show to the satisfaction of the Special Commissioners that income of the trustees of the first-mentioned trust arose under a trust which is a foreign trust, the right of recovery shall not be exercisable as respects the proper proportion of the amount which would be recoverable apart from this paragraph;

- (d) for the purposes of the two last foregoing paragraphs the proper proportion of any amount shall be taken to be so much thereof as bears to the whole thereof the same proportion as the income mentioned in the paragraph in question as arising under the foreign trust, ascertained in accordance with subsection (1) of section fifty-three of this Act, bears to the total income of the trustees mentioned in that paragraph, ascertained in accordance with subsection (2) of the said section fifty-three.

PART V.
—cont.

(8) Where any property or fund is held as to different parts thereof upon different trusts, this section shall apply separately to each part.

(9) In this section the expression "foreign trust" means a trust of which the administration is governed by the law of any place outside the United Kingdom.

57.—(1) The powers of a trustee or tenant for life (whether arising under the Settled Land Act, 1925, or that Act as applied by section twenty-eight of the Law of Property Act, 1925, or otherwise) to apply or direct the application of capital money and to raise money by mortgage shall be exercisable for the purpose of paying contribution and interest thereon, of making payments in advance of assessment in or towards the discharge of contribution, and of discharging any liability arising under the last foregoing section.

Application of trust property, etc. in payment of contribution. 15 & 16 Geo. 5. c. 20.

(2) As between the persons interested (whether in income or capital) under a trust, the law relating to the ultimate incidence of estate duty shall apply to any amount falling to be paid under the last foregoing section in respect of income derived from property subject to the trust as if that amount were estate duty charged on that property on the cesser of a life interest therein, being an interest not subject to any interest in the property in fact existing under the trust, occurring at the end of the year 1947-48, and were charged as on property not passing to the executor as such :

Provided that as between any annuity, other than one by reason of which the said amount or any part thereof fell to be paid, and other interests, the amount shall be borne by the other interests to the exoneration of the annuity.

(3) Where the income derived from property referred to in the last foregoing subsection was a share only of income from the property, whether or not subject to other interests, that subsection shall apply as if the income derived as aforesaid had been derived from a corresponding share of the property.

PART V.
—cont.

(4) This section shall, in its application to Scotland, have effect as if for subsection (1) there were substituted the following subsection :—

“(1) For the purpose of paying contribution and interest thereon, of making payments in advance of assessment in or towards the discharge of contribution, and of discharging any liability arising under the last foregoing section, a trustee, a liferenter or an heir of entail in possession shall have power to expend capital money and to sell, or to borrow money on the security of, the estate or any part thereof, heritable as well as moveable.”

(5) In the application of subsection (1) of this section to Northern Ireland, for the first reference to the Settled Land Act, 1925, there shall be substituted a reference to the Settled Land Acts, 1882 to 1890, and the reference to the said Act of 1925 as applied by the Law of Property Act, 1925, shall be omitted.

Provisions
as to husband
and wife.

58.—(1) Where a husband and wife were during any part of the year 1947–48 living together and any liability of the husband to contribution is attributable to investment income of the wife, then if any contribution payable by the husband remains unpaid at the expiration of twenty-eight days from the time when it became due, the Special Commissioners may by notice in writing require the wife to pay it up to an amount which bears to the whole of the contribution the same proportion as the aggregate investment income of the wife bears to the aggregate investment income of the husband.

(2) The provisions of this Part of this Act as to the payment and recovery of contribution shall apply to any sum required to be paid by the wife in pursuance of a notice under the last foregoing subsection as if it were contribution assessed on her and due on the day next following the giving of the notice.

(3) Where after the end of the year 1947–48, and before a notice has been given under subsection (1) of this section, the wife dies, the notice may be given to her personal representative ; and references to the wife in the last foregoing subsection shall be construed accordingly.

(4) Where the provisions of this subsection apply—

(a) the husband and the wife shall be assessed to contribution as if they were not married and the provisions of this Part of this Act and of regulations thereunder shall apply to each of them accordingly ; but

(b) in ascertaining total income and aggregate investment income for the purposes of this Part of this Act the income of the husband and wife shall be treated as the income of one individual, and the amount of the contribution payable by reference to the total income and aggregate investment income so ascertained shall be

divided between the husband and wife in proportion to the amounts of their respective aggregate investment incomes.

(5) The provisions of the last foregoing subsection shall apply in the case of a husband and wife—

- (a) where application in that behalf is made either by the husband or the wife in such manner and form as may be prescribed by the Commissioners of Inland Revenue ; or
- (b) where an application by the husband or wife under subsection (9) of section forty-two of the Finance Act, 1927, for separate assessment to sur-tax has effect as respects the year 1947-48, unless notice in writing requiring that the last foregoing subsection shall not apply is given both by the husband and by the wife in such manner and form as may be prescribed as aforesaid :

Provided that no application or notice under this subsection shall be made or given after the fifth day of October, nineteen hundred and forty-eight or such later date, not falling after the expiration of twenty-eight days from the giving to the husband of notice of the assessment to contribution, as the Special Commissioners may allow.

(6) Where of a husband and wife one died during the year 1947-48, the provisions of this Part of this Act shall apply to the survivor as if during that year they had not been married.

(7) References in this section to investment income of a husband or wife, except the reference in subsection (1) thereof to the aggregate investment income of the husband, shall be construed as references to investment income which would be such income of the husband or the wife apart from the provisions of the Income Tax Acts under which income of a wife is treated as income of her husband ; and where a husband and wife were married and living together during part only of the year 1947-48—

- (a) references in this section to the aggregate investment income of the wife shall be construed as references to her aggregate investment income for that part of the year ;
- (b) references therein to the aggregate investment income of the husband shall be construed as references to his aggregate investment income for the whole year.

59.—(1) The following provisions of this section shall have effect where an individual is assessed to contribution by reference to the undistributed income of a company (hereinafter referred to as “ the apportioned income ”) which by virtue of a direction and apportionment under section twenty-one of the Finance Act, 1922, was deemed to be his income for the purposes of sur-tax.

Provisions as to certain companies.
12 & 13 Geo. 5.
c. 17.

PART V.
—cont.

(2) If any part of the contribution remains unpaid at the expiration of twenty-eight days from the time when it became due, the Special Commissioners may by notice in writing addressed to the company require the company to pay it up to an amount which bears to the whole of the contribution the same proportion as the apportioned income bears to the aggregate investment income of the said individual, ascertained without any such deduction being made as is allowable under subsection (4) of section fifty-one of this Act.

(3) Any sum required to be paid by a company in pursuance of a notice under the last foregoing subsection shall be payable on the day next following the giving of the notice, and the provisions of this Part of this Act and of regulations thereunder shall apply to any such sum as they apply to contribution payable by an individual.

Appeals.

60.—(1) An individual may not later than the prescribed time from the giving to him of notice of the assessment appeal to the Special Commissioners against an assessment to contribution made on him.

(2) Where contribution assessed on an individual may fall to be recoverable from another person (hereafter in this section referred to as an "indirect contributor") by reason that it is charged by reference to income arising under a trust,—

- (a) the Special Commissioners shall, if the indirect contributor so requires or in any other case where the indirect contributor is known to them, give notice to him stating the amount of the said income and the amount of contribution attributable thereto, and shall give a like notice to the individual assessed ;
- (b) the indirect contributor or the individual assessed may not later than the prescribed time from the giving of the notice appeal to the Special Commissioners against the notice on the grounds that the amount of the said income has been wrongly ascertained, and on any appeal under this paragraph the Special Commissioners may make any alteration in the assessment necessitated by the determination of the appeal ;
- (c) on any appeal against the assessment by the individual assessed, being an appeal in which the amount of the said income is brought into question, the indirect contributor shall be entitled as respects that amount to appear and be heard by the Special Commissioners or to make representations to them in writing ;
- (d) on an appeal by an indirect contributor the individual assessed shall be entitled to appear and be heard by the Special Commissioners ;
- (e) where an assessment to contribution is varied, the Special Commissioners shall, if the indirect contributor so

requires or in any other case where he is known to them, give notice to him of any variation of the amount of the said income and the amount of contribution attributable thereto, and shall give a like notice to the individual assessed.

PART V.
—*conts.*

Where this subsection applies to an indirect contributor by reason of his being trustee or tenant for life under, or otherwise concerned with, a trust under which income arose to other trustees, the notice under paragraph (a) of this subsection, in lieu of stating the particulars specified in that paragraph, shall state the amount of the said income, the contribution attributable thereto and the total income of the said other trustees ; and where this provision has effect—

- (i) references in this subsection to the income arising under a trust by reference to which contribution is charged shall be construed as references to the said income arising to the other trustees and their total income ;
- (ii) references in this subsection to the amount of contribution attributable to the said income by reference to which contribution is charged shall be construed as references to the amount of contribution attributable to the said income arising to the other trustees ;
- (iii) references to the individual assessed (other than the first reference in this subsection to that individual) shall be construed as including references to the said other trustees.

(3) A wife on whom notice is served under subsection (1) of section fifty-eight of this Act requiring her to pay any sum in respect of contribution assessed on her husband may not later than the prescribed time from the giving of the notice appeal against the notice on the grounds that her investment income has been wrongly ascertained ; and on an appeal under this subsection—

- (a) the Special Commissioners may make any alteration necessitated by the determination of the appeal in the assessment on the husband ;
- (b) the husband shall be entitled to appear and be heard by the Special Commissioners.

(4) An appeal to the Special Commissioners may be brought against the determination of an application under any of the next five following sections of this Act, or under the Tenth Schedule thereto.

(5) The contributor or other persons mentioned in paragraph (b) or paragraph (c) of subsection (7) of section fifty-six of this Act may appeal to the Special Commissioners against a determination under the said paragraph (b) that no repayment is due thereunder

PART V.
—cont.

or as to the amount of any such repayment or a determination under the said paragraph (c) how far a right of recovery is exercisable.

(6) On any appeal under this section the Special Commissioners shall have power, if they think fit, to summon witnesses and examine them on oath.

(7) The provisions of section one hundred and forty-nine of the Income Tax Act, 1918 (which relate to the statement of a case for the High Court on a point of law) shall, with the necessary modifications, apply in the case of any appeal to the Special Commissioners under this section as they apply in the case of appeals to the Special Commissioners under that Act.

(8) Where an assessment for the purposes of income tax for the year 1947-48 has become final and conclusive and the assessment related only to investment income, the assessment shall be conclusive for the purposes of this Part of this Act as to the amount of the income to which the assessment relates and that amount shall not be questioned in any appeal under this section.

(9) An assessment to contribution which has become final against the individual assessed shall be final and conclusive against any other person, so however that where under this section a notice may be required to be given to that other person in connection with the assessment, the assessment shall not become final and conclusive against him until the notice has been given and, where the notice is subject to appeal, until the time for appealing against it has expired, or, if an appeal is brought, until it has been determined.

(10) Any notice which is given to an indirect contributor under this section in connection with the exercise of any right of recovery and which, if subject to appeal, has become final, shall be conclusive for the purposes of the exercise of the right.

(11) Notwithstanding anything in section fifty-six of this Act, no right of recovery thereunder shall be exercisable until any notice which may be required to be given to the indirect contributor under this section has been given and, if subject to appeal, has become final :

Provided that this subsection shall have effect subject to the provisions of regulations under the next following subsection relating to the recovery of tax appearing not to be in dispute.

(12) The Commissioners of Inland Revenue may by statutory instrument make regulations with respect to appeals under this section and the hearing thereof, and for prescribing anything authorised to be prescribed under this section, and may by those regulations apply and adapt any enactment relating to appeals as to income tax and to the collection and payment, notwithstanding a pending appeal, of so much tax as appears not to be in dispute.

Any statutory instrument made under this subsection shall be subject to annulment in pursuance of resolution of either House of Parliament.

PART V.
—cont.

61.—(1) Where—

- (a) either before or after an assessment to contribution is made, but in any case before such an assessment has become final, application is made to the Special Commissioners for relief under this section, and
- (b) the Special Commissioners are satisfied as respects any assets that, by reason of the provisions of the Income Tax Acts which require that income which is chargeable with income tax by way of deduction shall be deemed to be income of the year in which it is receivable, the income from the assets represents more than the income which would be attributable to a period of one full year if the income were deemed to have accrued from day to day,

Relief where income attributable to period of years was received in year 1947-48.

the Special Commissioners shall in ascertaining total income and aggregate investment income for the purposes of this Part of this Act make such reduction, if any, as may be appropriate to secure that there shall be taken as representing the income from the assets an amount equivalent to a full year's income therefrom.

(2) Subsection (1) of section thirty-six of the Finance Act, 1927 (which specifies the period over which income is deemed to have accrued from day to day) shall apply for the purposes of paragraph (b) of the last foregoing subsection as it applies for the purposes of section thirty-four of the said Act of 1927 (which makes in relation to surtax the like provision as subsection (1) of this section).

62.—(1) If, either before or after an assessment to contribution is made, but in any case before such an assessment has become final, application in that behalf is made to the Special Commissioners, then in ascertaining total income and aggregate investment income for the purposes of this Part of this Act Rule 8 of No. V of Schedule A shall have effect as if, for all purposes thereof, for references therein to the cost of maintenance, repairs, insurance and management according to the average of the preceding five years there were substituted references to the said cost for the year ending on the thirty-first day of March, nineteen hundred and forty-eight, or such other date in the year 1947-48 as may be adopted by the owner of the land or houses with the consent of the surveyor of the district.

Allowance for maintenance, repairs, etc.

(2) For the purpose of ascertaining the last-mentioned cost, paragraph (5) of the said Rule 8 (which provides for applying the provisions of the Income Tax Acts as to claims for allowances or deductions and the proof to be given with respect to such

PART V.
—cont.

claims, and for certification by the surveyor of the correctness of declarations by owners relating thereto) shall apply with the necessary modifications.

Limitation of
liability of
trustees.

63.—(1) Where—

- (a) on a claim against a trustee for the recovery of contribution, not being contribution in respect of which the trustee could have given notice under subsection (4) of section fifty-six of this Act, or
- (b) on a claim against a tenant for life for the recovery of contribution,

the trustee or tenant for life shows to the satisfaction of the Special Commissioners that his rights of indemnification out of the trust estate are, otherwise than by negligence or default on his part, insufficient to provide for his reimbursement, the Special Commissioners shall give such directions for the limitation or release of his liability as appear just and equitable.

(2) Where a person who has paid any contribution proves to the satisfaction of the Special Commissioners that by reason of directions under the last foregoing subsection he is deprived of the right to recover any amount in respect thereof, the Special Commissioners shall repay that amount to him.

Relief where
capital
subject to
death duties.

64.—(1) Where, either before or after an assessment to contribution is made, but in any case before such an assessment has become final, application is made to the Special Commissioners for relief under this section, and the Special Commissioners are satisfied—

- (a) that in consequence of a death occurring before the end of the year 1947-48 death duties became payable in respect of any assets, and
- (b) that investment income affecting, whether directly or indirectly, the amount of any contribution arose from the assets, and
- (c) that the amount of that income exceeded what it would have been if all death duties payable in consequence of the death had been paid immediately on the occurrence of the death or other event whereby the duties became payable,

the amount of the said income shall in ascertaining aggregate investment income for the purposes of this Part of this Act be treated as reduced by such amount as the Special Commissioners may determine to be appropriate to offset the excess.

(2) In this section the expression “death duties” means estate duty, succession duty or legacy duty.

65.—(1) Where at any time before the fifth day of April, nineteen hundred and fifty-four it is shown to the satisfaction of the Special Commissioners that an assessment to contribution was excessive by reason of any error or mistake in any return or statement made for the purposes of contribution, or that after the assessment became final any adjustment was made under the provisions of the Income Tax Acts of any income that was relevant to ascertaining aggregate investment income or total income for the purposes of the assessment, the Special Commissioners shall authorise any appropriate adjustment of the contribution.

PART V.
—cont.
Relief in respect of error or mistake.

(2) Effect shall be given to any adjustment authorised by the Special Commissioners under this section either by discharge or reduction of the assessment in question, or by repayment of the contribution to the persons by whom it was paid or from whom it was recovered, or by all or any of those means, as the case may require.

(3) Where contribution is repaid under this section, there shall also be repaid any interest paid in respect of that contribution.

(4) Where under this section repayment is made of contribution the whole or any part of which was discharged by payment in advance, the amount of the repayment shall be calculated as if the payment in advance had been made in respect of the contribution as adjusted under this section and as if the interest referred to in subsection (2) of section fifty-four of this Act had been calculated accordingly.

66.—(1) Where under a settlement any property (whether real or personal) was for the whole or any part of the year 1947-48 held upon trust for the National Trust subject only to a life interest of the settlor or to life interests of the settlor and his wife or her husband, whether jointly or in succession, any income arising from the property during that year or the part thereof in question shall be disregarded for the purposes of this Part of this Act :

Provisions as to National Trust.

Provided that nothing in this section shall affect the ascertainment of the amount of an individual's total income.

(2) In this section the expression "National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, or the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated under the National Trust for Scotland Order Confirmation Act, 1935.

7 Edw. 7.
c. cxxxvi.
26 Geo. 5 and
1 Edw. 8. c. ii.

67. All Commissioners and other persons employed for any purpose in connection with the assessment or collection of contribution shall be subject to the same obligations as to secrecy with respect to contribution as they are subject to with respect to income tax, and any oath taken by any such person as to secrecy with respect to income tax shall be deemed to extend also to secrecy with respect to contribution.

PART V.
—cont.
Interpreta-
tion of Part V.

68.—(1) In this Part of this Act—

- the expression “assessment” includes additional assessment ;
 references to income of an individual arising under a trust
 include references to income from property subject to
 the trust which is treated as the income of that individual
 by virtue of any of the provisions of the Income Tax Acts;
 the expression “tenant for life” means, in relation to any
 settlement, any person who has the powers of a tenant
 for life under the Settled Land Act, 1925, or in Northern
 Ireland under the Settled Land Acts, 1882 to 1890 ;
 references to a trust do not include references to a trust
 constituted in pursuance of a unit trust scheme as
 defined for the purposes of Part VII of the Finance
 Act, 1946 ;
 the expression “trustee” includes a personal representative,
 and the expression “trust” shall be construed
 accordingly.

(2) Save as expressly provided in this Part of this Act,
 expressions used therein have the same meanings as in the
 Income Tax Acts.

PART VI.

THE PROFITS TAX.

Payments of
interest, etc.,
between
connected
companies.

69.—(1) Subject to the provisions of this section, paragraph (b)
 of subsection (5) of section forty-two of the Finance Act, 1938
 (which subsection provides in the case of certain payments by
 one body corporate to another connected with it, by paragraph
 (a) thereof, that the payment shall not be an allowable deduction
 in computing profits of the payer and, by paragraph (b) thereof,
 that the payment shall not be included in computing profits of
 the recipient) shall not have effect as respects any payment
 made to a body corporate resident in the United Kingdom.

- (2) The preceding subsection shall not apply to a payment—
 (a) which is made while a notice given under subsection (1)
 of section twenty-two of the Finance Act, 1937 (which
 enables a principal company to elect that the profits or
 losses of a subsidiary shall be treated as profits or losses
 of the principal company) either by the payer or the
 recipient is in force with respect to the other, or notices
 so given by a third body corporate are in force with
 respect both to the payer and the recipient ; or
 (b) which by virtue of paragraph (c) of subsection (1) of
 section thirty-six of the Finance Act, 1947 (which relates

to amounts deemed to be distributions by a director-controlled company) falls to be treated as part of the gross relevant distributions to proprietors of the payer for any chargeable accounting period.

PART VI.
—cont.

(3) Where a payment, by virtue of the said paragraph (a) of subsection (5) of section forty-two of the Finance Act, 1938, falls to be disallowed in computing the profits of the payer and, by virtue of subsection (1) of this section, falls to be taken into account in computing the profits of the recipient, the profits tax chargeable on the recipient for the chargeable accounting period in which the payment is received shall be reduced by ten per cent. of the amount of the payment, or of the amount of the profits of the recipient chargeable for that period to the profits tax, whichever is the less.

(4) Where a notice under the said subsection (1) of section twenty-two of the Finance Act, 1937, by a third body corporate is in force with respect to the recipient of the payment, the last preceding subsection shall apply as if for any reference therein to profits tax chargeable on the recipient for the chargeable accounting period in which the payment is received, and to the profits of the recipient chargeable for that period to the profits tax, there were respectively substituted a reference to profits tax chargeable on the third body corporate for the corresponding chargeable accounting period of that body corporate and to the profits of the third body corporate chargeable for that period to the profits tax.

(5) Neither the said subsection (5) of section forty-two of the Finance Act, 1938, nor any of the preceding provisions of this section shall apply to any payment if—

- (a) the recipient is resident in the United Kingdom; and
- (b) the payer and the recipient and, where both the payer and the recipient are subsidiaries of a third body corporate, that third body corporate, jointly elect that the said subsection (5) shall not apply to payments by the said payer to the said recipient; and
- (c) the payment is one to which the election applies.

Any such election—

- (i) shall specify the first payment to which the election is to apply;
- (ii) must be made by notice in writing to the Commissioners given before the expiration of six months from the end of the chargeable accounting period of the recipient in which the said payment is made or within such longer time as the Commissioners may in any case allow; and
- (iii) shall apply to that payment and all subsequent payments by the said payer to the said recipient.

PART VI.
—cont.

(6) The preceding provisions of this section shall have effect, and shall be deemed always to have had effect, as if they had been part of the provisions of Part IV of the Finance Act, 1947, and any such additional assessments shall be made as are necessary to give effect to this section.

Repayment
of loans
treated as
gross relevant
distributions.

70.—(1) Subsection (3) of section thirty-six of the Finance Act, 1947 (which grants relief where loans which have been treated as part of the gross relevant distributions to proprietors are repaid) shall have effect as if for each reference therein, except the first reference, to gross relevant distributions there were substituted a reference to net relevant distributions.

(2) This section shall have effect, and shall be deemed always to have had effect, as if it had been part of the provisions of Part IV of the Finance Act, 1947.

Directors'
remuneration.

71.—(1) In the enactments relating to the profits tax, the expression "remuneration" in relation to a director of a company includes all sums, whether actually paid to the director or not, which, by virtue of any of the provisions of the Income Tax Acts, and, in particular, any of the provisions of Part IV of this Act, fall to be treated for the purposes of income tax under Schedule E as part of the salaries, fees, wages, perquisites or profits from his office as director or from any employment in which he is employed by the company :

Provided that where for income tax purposes any deduction falls to be made under Rule 9 of the Rules applicable to Schedule E from any remuneration, that remuneration shall be treated for the purposes of paragraph 11 of the Fourth Schedule to the Finance Act, 1937, as reduced by the amount of the deduction.

(2) Where any of the said sums are not paid by the company, the trading receipts of the company and the expenditure of the company in respect of the remuneration of the director shall both be treated as increased by the said sums not so paid, and the said increase of that expenditure shall be treated for the purposes of paragraph (c) of subsection (1) of section thirty-six of the Finance Act, 1947, as having been applied for the benefit of the director.

(3) This section shall have effect subject to the provisions of subsection (2) of section sixty-three of the Finance Act, 1947 (which provides that certain sums received by directors shall not for certain purposes be treated as part of their remuneration).

(4) This section shall have effect as respects remuneration accruing on or after the sixth day of April, nineteen hundred and forty-eight, and, as respects that remuneration, shall be deemed always to have had effect.

PART VII.

STAMPS.

72.—(1) Where, in the opinion of the Commissioners, any body of persons carrying on industrial assurance business so carries on that business as to render it impracticable or inexpedient to require that the stamp duties chargeable on policies issued by the body in the course of that business should be charged and paid thereon, the Commissioners may enter into an agreement with that body for the delivery to the Commissioners of periodical accounts giving such particulars as may be required of the policies so issued by the body.

Agreements as to stamp duty on industrial assurance policies.

(2) The agreement shall be in such form and shall contain such terms and conditions as the Commissioners think proper.

(3) Where an agreement has been entered into under this section between the Commissioners and any body of persons, any policy which, during the period for which the agreement is in force, is issued by that body in the course of its industrial assurance business and which contains a statement that the appropriate stamp duty has been or will be paid to the Commissioners in accordance with the provisions of this section, shall not be chargeable with any stamp duty, but the aggregate of the sums which, but for the provisions of this section, would have been chargeable by way of stamp duty on the policies issued during the period to which any account delivered under the agreement relates shall, by way of composition, be paid by the body to the Commissioners on the delivery of the account.

(4) Where a body makes default in delivering any account required by any such agreement or in paying the duty payable on the delivery of any such account, the body 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 to 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) In this section the expression "industrial assurance business" has the same meaning as in the Industrial Assurance Act, 1923, as amended by any subsequent enactment, whether passed before or after this Act.

13 & 14 Geo. 5. c. 8.

73.—(1) Where—

- (a) at any time after the third day of December, nineteen hundred and forty-six, arrangements are made for the reconstruction or amalgamation of any companies; 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

Relief from stamp duty on certain amalgamations of cotton spinning concerns.

PART VII.
—cont.

for the making, under any Act of the present Session passed in that behalf, of a grant out of moneys provided by Parliament towards the cost of re-equipping or modernising cotton spinning mills as defined in that Act,

the provisions of section fifty-five of the Finance Act, 1927 (which provides relief from capital and transfer stamp duty in certain cases of company reconstruction or amalgamations which involve the acquisition by a company of the undertaking of, or of not less than ninety per cent. of the issued share capital of, an existing company) shall, in relation to any transaction effected in pursuance of the arrangements, have effect subject to the modifications specified in subsections (2) and (3) of this section.

(2) The first of the said modifications is that for the references in paragraph (b) of subsection (1), and in subsection (7), to ninety per cent. of the issued share capital of the existing company there shall be substituted references to such part of the issued share capital of the existing company as is necessary for the purpose of giving to the transferee company a controlling interest in the existing company, or to ninety per cent. of the issued share capital of the existing company, whichever is the less.

(3) The second of the said modifications is that in paragraph (c) of subsection (1) (which requires a portion of the consideration for the acquisition to consist of an issue of shares in the transferee company) for the words "consists as to not less than ninety per cent. thereof" there shall be substituted the words "consists as to some part thereof".

(4) This section shall be deemed to have had effect as from the third day of December, nineteen hundred and forty-six, and if, before the date of the passing of this Act, any stamp duty has been paid which under this section ought not to have been paid, the Commissioners shall, on application made to them within two years after the date of the payment, cancel the relevant stamps and allow them as spoiled and repay duty accordingly.

(5) The power conferred by subsection (4) of this section shall be exercisable in relation to the duty paid on any instrument notwithstanding that, in accordance with the provisions of section twelve of the Stamp Act, 1891, that instrument has been stamped with a particular stamp denoting that it is duly stamped.

54 & 55 Vict.
c. 39.

Exemption
from stamp
duty in
connection
with certain
nationalisation
schemes.

74. If, by any scheme under Part IV of the Transport Act, 1947, or by or under any Act passed after the beginning of the present Session which embodies any scheme for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control, provision is made for the transfer of the undertaking of any body corporate, and for the application to any shares, stock, debentures, debenture stock or

other securities of that body corporate of provisions appearing to the Treasury to correspond to the provisions of Part II of the Fifth Schedule to the Transport Act, 1947, the Treasury may direct, as respects all or any of the shares, stock, debentures, debenture stock or other securities, that, as from the date of the transfer of the undertaking, transfers thereof shall be exempt from all stamp duties.

PART VII.
—*cont.*

75. The stamp duty chargeable under the heading in the First Schedule to the Stamp Act, 1891, " Faculty or Dispensation of any other kind " shall cease to be chargeable.

Abolition of stamp duty on faculties for Lambeth degrees, &c.

PART VIII.

MISCELLANEOUS.

76.—(1) For the purposes of the last paragraph of subsection (1) of section eleven of the Customs and Inland Revenue Act, 1889 (which, as applied for the purposes of estate duty, provides that money received under a policy of assurance effected by the deceased person on his life and kept up by him shall be treated as passing on his death) so much of the premiums paid on any policy of assurance as was, by virtue or in consequence of a settlement made by the deceased, paid out of property, whether or not provided by the deceased, comprised in the settlement or out of income, whether or not provided by the deceased, arising under the settlement, shall be treated as having been paid by the deceased :

Estate duty where policies kept up or effected under settlements.
52 & 53 Vict. c. 7.

Provided that any payments which were not made either out of property provided directly or indirectly by the deceased for the purposes of the settlement, or out of property representing that property, or out of income provided directly or indirectly by the deceased whether arising from such property or otherwise, shall not be treated as having been made by the deceased if the Commissioners of Inland Revenue are satisfied that those payments were not made as part of any reciprocal arrangements between the deceased and any other person.

(2) For the purposes of the said enactment in the Customs and Inland Revenue Act, 1889, a policy of assurance on the life of a deceased person effected by virtue or in consequence of a settlement made by the deceased shall be treated as having been effected by the deceased.

(3) This section shall be deemed to have had effect as respects persons dying on or after the seventh day of April, nineteen hundred and forty-eight.

PART VIII.
—*cont.*

(4) For the purposes of this section—

- (a) the expression “settlement” includes any disposition, trust, covenant, agreement or arrangement; and
- (b) a person shall be deemed to have made a settlement if he has made or entered into the settlement directly or indirectly, and in particular (but without prejudice to the generality of the foregoing words of this paragraph) if he has provided or undertaken to provide funds directly or indirectly for the purposes of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

Further provision for relief from double death duty.

77.—(1) If His Majesty by Order in Council declares that arrangements specified in the Order have been made with the Government of any territory outside the United Kingdom, the laws of which do not provide for a duty similar to estate duty, with a view to affording relief from double taxation in relation to estate duty payable under the laws of the United Kingdom and any duty leviable on, or by reference to, death imposed under the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall, notwithstanding anything in any enactment, have effect so far as they provide for determining the place where any property is to be treated as being situated for the purposes of estate duty.

(2) Any arrangements to which effect is given under this section may include provisions as respects deaths occurring on or after the seventh day of April, nineteen hundred and forty-eight, and provisions as to property which is not itself subject to double duty, and the provisions of this section shall have effect accordingly.

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

(4) Before any Order proposed to be made under this section is submitted to His Majesty in Council, a draft thereof shall be laid before the Commons House of Parliament, and the Order shall not be so submitted unless an address is presented to His Majesty by that House praying that the Order be made.

10 & 11 Geo. 5.
c. 67.

(5) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall, as respects estate duty payable under the laws of Northern Ireland, have power to make laws for purposes similar to the purposes of this section.

78. Section thirty-seven of the Finance Act, 1946 (which allows relief from excess profits tax for certain terminal expenses, as therein defined) shall have effect, and be deemed always to have had effect, as if for subsection (2) thereof (which relates to the period within which such expenses must have been incurred if the relief is to be given) there were substituted the following subsection—

PART VIII.
—cont.
Extension of time in relation to relief from excess profits tax for terminal expenses.

“(2) The period referred to in subsection (1) of this section is the year nineteen hundred and forty-seven :

Provided that if the person making the claim complies with either of the following conditions, that is to say, either—

- (a) that he produces to the Commissioners before the end of March, nineteen hundred and forty-eight, or such later date as they may allow, particulars of work required to be done, as at the said thirty-first day of December, and satisfies them that that work was not completed before the end of the year nineteen hundred and forty-seven ; or
- (b) that he furnishes to the Commissioners before the said end of March, or such later date as they may allow, a preliminary statement in respect of any such work, setting out such information as is available to him as to the position in respect thereof, and, before the end of March, nineteen hundred and forty-nine, or such later date as the Commissioners may allow, produces to them the particulars, and satisfies them as to the matters, specified in paragraph (a) of this proviso,

the said period shall be treated as extended, in relation to any terminal expenses incurred on doing that work, until the end of March, nineteen hundred and fifty-two.”

79.—(1) For all the purposes of the Income Tax Acts and the enactments relating to the profits tax—

Income tax and profits tax in connection with electricity boards.

- (a) any trade or business carried on by any Area Board established by or under the provisions of the Electricity Act, 1947, shall be treated as if it were part of the trade or business carried on by the British Electricity Authority ;
- (b) subject to the provisions of paragraph (c) of this subsection, any property, rights or liabilities of any such Board shall be treated as property, rights or liabilities of the said Authority, and anything done by or to any such Board shall be deemed to have been done by or to the said Authority ;

PART VIII.
—*cont.*

(c) any rights, liabilities or things done—

(i) of, by or to the said Authority against, to or by any such Board ; or

(ii) of, by or to any such Board against, to or by the said Authority or any other such Board,

shall be left out of account,

and income tax and the profits tax shall be charged accordingly.

(2) Section forty-one of the Electricity Act, 1947 (which enables the British Electricity Authority to require an Area Electricity Board to contribute towards the satisfaction of certain obligations of the Authority) shall have effect in relation to obligations of the said Authority as respects income tax and the profits tax, and, accordingly, in subsection (1) of that section (as amended by section one hundred and three of the Local Government Act, 1948) the word “ or ” where it occurs at the end of paragraph (d) shall be omitted and after paragraph (e) there shall be inserted the words—

“ or

(f) income tax or the profits tax ”.

(3) This section shall be deemed always to have had effect.

11 & 12 Geo. 6.
c. 26.

Provisions as to permanent annual charge for the National Debt and as to the Old Sinking Fund.

80.—(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-nine, shall be the sum of five hundred million pounds instead of the sum of three hundred and fifty-five million pounds.

(2) Any amount applied out of revenue during the said year in redeeming or paying off any description of debt shall be deemed to be expenditure within the meaning of sections four and five of the Sinking Fund Act, 1875.

39 & 40 Vict.
c. 45.

Certain Defence Bonds and Savings Certificates issued by the Government of Palestine to form part of the National Debt.

2 & 3 Geo. 6.
c. 117.

81. Any Defence Bonds or Palestine Savings Certificates issued by the Government of Palestine under the War Loan Ordinance, 1941, outstanding immediately before the fifteenth day of May, nineteen hundred and forty-eight, shall, as from the said fifteenth day of May, be treated for the purposes of the National Loans Act, 1939, as if the money raised thereby had been raised under that Act through the Post Office in, and in the currency of, the United Kingdom, as if the Bonds and Certificates had been securities issued under that Act accordingly, and as if the liabilities under the Bonds and Certificates expressed in terms of the currency of Palestine had been liabilities in the currency of the United Kingdom, any necessary conversion being effected at par.

82.—(1) This Act may be cited as the Finance Act, 1948.

PART VIII.

(2) Part I of this Act—

—cont.

(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

Short title,
construction,
extent and
repeals.

(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.

(4) Parts III and IV of this Act, and so much of Part VIII thereof as relates to income tax, shall be construed as one with the Income Tax Acts.

(5) Part VI of this Act, and so much of Part VIII thereof as relates to the profits tax, shall be construed as one with Part III of the Finance Act, 1937, and the other enactments relating to the profits tax.

(6) Part VII of this Act shall be construed as one with the Stamp Act, 1891.

(7) So much of Part VIII of this Act as relates to estate duty shall be construed as one with Part I of the Finance Act, 1894. 57 & 58 Vict. c. 30.

(8) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(9) Save as otherwise expressly provided, such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(10) The enactments specified in the Eleventh Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule :

Provided that the repeal of the enactments specified in Part II of that Schedule shall have effect only as respects the year 1949–50 and subsequent years of assessment.

SCHEDULES.

Section 1.

FIRST SCHEDULE.

TOBACCO (RATES OF DUTY AND DRAWBACK).

PART I.

CUSTOMS DUTIES.

Description of Tobacco.	Rates of duty per pound.					
	Full rates.			Preferential rates.		
	£	s.	d.	£	s.	d.
Tobacco unmanufactured—						
containing 10 lbs. or more of moisture in every 100 lbs. weight thereof—						
unstripped	2	18	2	2	16	7½
stripped	2	18	2½	2	16	7½
containing less than 10 lbs. of moisture in every 100 lbs. weight thereof—						
unstripped	2	19	2	2	17	5½
stripped	2	19	2½	2	17	5½
Tobacco manufactured, viz. :—						
Cigars... ..	3	7	9	3	4	9½
Cigarettes	3	3	8	3	1	3½
Cavendish or Negrohead	3	2	8	3	0	5
Cavendish or Negrohead manufactured in bond	3	0	8	2	18	8½
Other manufactured tobacco	3	0	11	2	18	11½
Snuff—						
containing more than 13 lbs. of moisture in every 100 lbs. weight thereof	3	0	2	2	18	3½
containing not more than 13 lbs. of moisture in every 100 lbs. weight thereof	3	2	8	3	0	5

and so in proportion for any less quantity.

PART II.

EXCISE DUTIES.

Description of Tobacco.	Rates of duty per pound.		
	£	s.	d.
Tobacco unmanufactured—			
containing 10 lbs. or more of moisture in every 100 lbs. weight thereof			
	2	16	5½
containing less than 10 lbs. of moisture in every 100 lbs. weight thereof			
	2	17	3½
Tobacco manufactured, viz. :—			
Cavendish or Negrohead manufactured in bond	2	18	8½

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... ..	3 2 2	3 0 7½
Cigarettes	2 19 2	2 17 7½
Cut, roll, cake or other manufactured tobacco	2 18 11	2 17 4½
Snuff (not being offal snuff)	2 18 8	2 17 1½
Stalks, shorts or other refuse of tobacco, including offal snuff	2 18 5	2 16 10½

SECOND SCHEDULE.

Section 2.

BEER (RATES OF DUTY AND DRAWBACK).

PART I.

RATE OF EXCISE DUTY.

	£ s. d.
For every 36 gallons of worts of a specific gravity of 1,027 degrees or less	8 18 10½
For every 36 gallons of worts of a specific gravity exceeding 1,027 degrees—	
For the first 1,027 degrees	8 18 10½
For every additional degree in excess of 1,027 degrees	6 7½
And so in proportion for any less number of gallons.	

PART II.

RATE OF EXCISE DRAWBACK.

	£ s. d.
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less...	8 19 0½
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—	
For the first 1,027 degrees	8 19 0½
For every additional degree in excess of 1,027 degrees	6 7½
And so in proportion for any less number of gallons.	

As respects beer the worts whereof were, before fermentation, of a specific gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed by more than twopence for every 36 gallons the amount of duty which is shown to the satisfaction of the Commissioners to have been paid.

2ND SCH.
—cont.

PART III.

RATE OF CUSTOMS DUTY IN CASE OF BEER BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less	8	19	3½
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	8	19	3½
For every additional degree in excess of 1,027 degrees...	6	7½	

And so in proportion for any less number of gallons.

PART IV.

RATE OF CUSTOMS DUTY IN CASE OF BEER NOT BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less	9	19	3½
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	9	19	3½
For every additional degree in excess of 1,027 degrees...	6	7½	

And so in proportion for any less number of gallons.

PART V.

RATE OF CUSTOMS DRAWBACK IN CASE OF BEER BEING AN EMPIRE PRODUCT.

	£	s.	d.
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less	8	19	0½
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	8	19	0½
For every additional degree in excess of 1,027 degrees...	6	7½	

And so in proportion for any less number of gallons.

As respects beer the worts whereof were, before fermentation, of a specific gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid, less threepence for every 36 gallons.

PART VI.

RATE OF CUSTOMS DRAWBACK IN CASE OF BEER NOT BEING AN EMPIRE
PRODUCT.

	£	s.	d.
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity of 1,027 degrees or less	9	19	0½
For every 36 gallons the worts whereof were, before fermentation, of a specific gravity exceeding 1,027 degrees—			
For the first 1,027 degrees	9	19	0½
For every additional degree in excess of 1,027 degrees...		6	7½
And so in proportion for any less number of gallons.			

As respects beer the worts whereof were, before fermentation, of a specific gravity of less than 1,027 degrees, the amount of drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid, less three-pence for every 36 gallons.

THIRD SCHEDULE.

Section 3.

SPIRITS (RATES OF ORDINARY CUSTOMS DUTY).

Description of Spirits.	Preferential rates.		Full rates.	
	In cask.	In bottle.	In cask.	In bottle.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
For every gallon computed at proof of—				
Brandy or rum	10 11 2	10 12 2	10 13 8	10 14 8
Imitation rum or geneva	10 11 3	10 12 3	10 13 9	10 14 9
Unsweetened spirits other than those already enumerated	10 11 3	10 11 3	10 13 9	10 13 9
For every gallon of perfumed spirits	9 12 0	9 13 0	9 12 0	9 13 0
For every gallon of liqueurs, cordials, mixtures and other preparations in bottle entered in such manner as to indicate that the strength is not to be tested	—	14 5 10	—	14 9 2
For every gallon computed at proof of spirits of any description not heretofore mentioned, including naphtha and methylic alcohol purified so as to be potable, and mixtures and preparations containing spirits ...	10 11 3	10 12 3	10 13 9	10 14 9

Section 4

FOURTH SCHEDULE.

WINES (RATES OF CUSTOMS DUTY).

PART I.

NON-EMPIRE PRODUCTS.

Description of Wine.	Rate of duty per gallon.
	£ s. d.
Not exceeding 25 degrees proof spirit	1 5 0
Exceeding 25 degrees proof spirit and not exceeding 42 degrees proof spirit	2 10 0
For every degree or fraction of a degree above 42 degrees proof spirit, an additional duty	0 4 2
Sparkling, an additional duty	0 12 6
Still, in bottle, an additional duty	0 2 6

PART II.

EMPIRE PRODUCTS.

Description of Wine.	Rate of duty per gallon.
	£ s. d.
Exceeding 27 degrees proof spirit and not exceeding 42 degrees proof spirit	2 0 0
For every degree or fraction of a degree above 42 degrees proof spirit, an additional duty	0 3 4
Sparkling, an additional duty	0 12 6
Still, in bottle, an additional duty	0 1 6

Section 5.

FIFTH SCHEDULE.

SWEETS (RATES OF EXCISE DUTY).

Description of Sweets.	Rate of duty per gallon.
	£ s. d.
Not exceeding 27 degrees proof spirit	1 2 6
Exceeding 27 degrees proof spirit	1 10 6
Sparkling, an additional duty	0 6 0

SIXTH SCHEDULE.

Section 15.

BOOKMAKERS' LICENCE DUTY.

Interpretation.

1. In this Schedule—

- (a) any reference to a course shall be construed as a reference to a dog race-course where there is a totalisator ; and
- (b) any reference to the licensed occupier of a course shall be construed as a reference to the person who is for the time being the holder of a licence in respect of the course under Part I of the Betting and Lotteries Act, 1934.

Care and Management of Duty.

2. The bookmakers' licence duty shall be under the care and management of the Commissioners.

Duties of Licensed Occupier of Course.

3.—(1) The Commissioners shall furnish every licensed occupier of a course with forms of licences and the appropriate licence shall be issued by the licensed occupier to any person whom the licensed occupier admits to an enclosure on the course on payment by him to the licensed occupier of the duty chargeable on the licence.

(2) The licensed occupier of a course shall not by reason of requiring the payment of any sum in respect of any bookmakers' licence duty be treated as having made a charge other than a charge authorised by subsection (1) of section thirteen of the Betting and Lotteries Act, 1934 (which restricts the charges which may be made by the occupier of a track on the admission of bookmakers to the track) and, accordingly, nothing in subsection (2) of that section shall make that requirement the commission of an offence under that subsection.

(3) The payment of any bookmakers' licence duty shall not be treated as part of a payment for admission for the purposes of entertainments duty.

(4) The amount of duty due on a licence issued to any person by the licensed occupier of a course shall be recoverable from him by the licensed occupier as a debt due to the licensed occupier.

(5) Every licensed occupier of a course shall account to the Commissioners for the duty receivable by him and the amount of any duty for which he is accountable shall be recoverable from him as a debt due to the Crown.

(6) If the licensed occupier of a course fails to collect or account for the duty for which he is accountable, he shall be liable to an excise penalty of two hundred pounds, or treble the amount of the duty which he has failed to collect or account for, at the election of the Commissioners.

(7) If the licensed occupier of a course on which there is held a meeting at which a totalisator is operated—

- (a) admits to the course a person whom the licensed occupier knows to be intending to carry on bookmaking on the course

6TH SCH
—cont.

at the meeting without requiring him to take out a licence or without recovering from him the duty chargeable on a licence taken out by him ; or

- (b) permits any person to carry on bookmaking in an enclosure on the course at the meeting without having taken out a licence in that behalf,

the licensed occupier shall be liable to an excise penalty of two hundred pounds.

Officers of Customs and Excise.

4.—(1) The licensed occupier of a course shall admit an officer in the course of his duty to any part of the course without any payment for admission and shall, if an officer, for the purpose of ascertaining the duty for which the licensed occupier is accountable, so requires, produce to the officer any books, accounts or other documents.

(2) An officer may require from any person at a meeting at which a totalisator is operated who appears to the officer to be carrying on bookmaking such information as the officer may require, or the production to the officer of any books, accounts or other documents which appear to the officer to be connected with the business of bookmaking or to establish the identity of that person, and that person shall comply with the requirement.

(3) An officer may take copies of or extracts from any books, accounts or other documents produced to him in pursuance of this paragraph.

(4) If any person contravenes or fails to comply with the preceding provisions of this paragraph or obstructs an officer in the exercise of any of his functions in connection with the bookmakers' licence duty, he shall be liable to an excise penalty of two hundred pounds.

(5) In this paragraph the expression " officer " means an officer of Customs and Excise, and includes any person who is expressly authorised by the Commissioners to perform the duties of an officer of Customs and Excise for the purposes of the bookmakers' licence duty.

Regulations.

5.—(1) The Commissioners may by statutory instrument make regulations for securing the payment of the bookmakers' licence duty, and in particular—

- (a) for regulating the supply and use, and prescribing the form, of licences ;
- (b) for requiring bookmakers on a course to display their licences ;
- (c) for preventing bookmakers in a cheaper enclosure from doing business with persons in a dearer enclosure and for preventing bookmakers from doing business on a course but not in an enclosure ;
- (d) for requiring the licensed occupier of a course to keep records and accounts and make returns of licences issued and duty receivable by him and to retain relevant documents for a prescribed period ;

- (e) for requiring the licensed occupier of a course to display notices of the rates of the duty payable on admission to the course and to give the prescribed notice to the Commissioners of any change affecting those rates ;
- (f) for applying, with the necessary adaptations, as respects licences all or any of the provisions of the Stamp Duties Management Act, 1891 (including the penal provisions and the provisions repealed save as to Scotland by the Forgery Act, 1913) ;
- (g) for excluding such of the provisions of the Excise Licences Act, 1825, or of any other enactment relating to excise as appear to the Commissioners to be inappropriate for bookmakers' licences or the bookmakers' licence duty.

(2) Regulations under this paragraph may also provide for authorising and requiring the licensed occupier of a course, subject to the prescribed conditions, to repay, out of moneys received by him on account of the bookmakers' licence duty, to persons who have taken out licences, prescribed amounts in respect of meetings or races which, in the event, were not held.

(3) Without prejudice to any other penal provisions imposed by or under this Schedule, if any person contravenes or fails to comply with any regulations made under this paragraph, he shall be liable to an excise penalty of fifty pounds.

(4) Where a person is convicted under the last foregoing sub-paragraph in respect of a failure to keep records or accounts or to make returns, and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence and shall, on conviction, be liable to a further excise penalty of the like amount as that to which he was liable in respect of the first offence.

Further Provisions as to Offences.

6.—(1) If any person—

- (a) in connection with the bookmakers' licence duty 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 or, with intent to deceive, produces or makes use of any book, account, return or other document which is false in a material particular ; or
- (b) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of the said duty by him or by any other person,

he shall be liable to an excise penalty of two hundred pounds or treble the amount of the duty to which the statement or document relates or which is sought to be avoided, as the case may be, at the election of the Commissioners :

Provided that subsections (2) and (3) of section twelve of the Finance Act, 1943 (which confer power on a court to order imprisonment in lieu of, or in addition to, a penalty in certain cases) shall apply as if an offence under this sub-paragraph were such an offence as is mentioned in the said subsection (2).

6TH SCH.
—cont.

(2) Where an offence under the section of this Act relating to the bookmakers' licence duty or under this Schedule 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.

Section 16.

SEVENTH SCHEDULE.
**RATES OF ENTERTAINMENTS DUTY FOR STAGE
PLAYS, ETC.**

Amount of Payment.	Rate of duty.
Where the amount of the payment, excluding the amount of duty,—	
exceeds 1s. and does not exceed 1s. 5d. ...	1d.
exceeds 1s. 5d.	1d. for the first 1s. 5d. and 1d. for every 5d. or part of 5d. over 1s. 5d.

Sections 20 &
22.

EIGHTH SCHEDULE.
PURCHASE TAX.

PART I.

RATES OF TAX.

GROUP I.

Garments and footwear:—

- (a) Articles not comprised in any of the following paragraphs of this Group First.
- (b) Utility fully fashioned stockings First.
- (c) Utility garments made wholly or mainly of fur skin First.
- (d) Utility articles not comprised in paragraphs (b) or (c) of this Group Exempt.
- (e) Articles made wholly or partly of rough-tanned, undyed sheep or lamb skin with wool attached and designed specially for industrial use First.
- (f) Articles made wholly or partly of fur skin (including any skin with fur, hair or wool attached) other than those comprised in paragraphs (c) or (e) of this Group Third.

- | | | |
|--|---------|--------------------|
| (g) Protective boots designed for use by miners or quarrymen or moulders | Exempt. | 8TH SCH.
—cont. |
| (h) Clogs and other wooden-soled footwear, other than articles made wholly or partly of fur skin (including any skin with fur, hair or wool attached) | Exempt. | |
| (i) Articles of a kind suitable for young children's wear, other than articles made wholly or partly of fur skin (including any skin with fur, hair or wool attached) | Exempt. | |
| (j) Surgical appliances | Exempt. | |
| (k) Articles knitted or crocheted by hand without mechanical aid, including such articles embroidered by hand-needlework | Exempt. | |

GROUP 2.

Headgear:—

- | | |
|--|---------|
| (a) Articles not comprised in any of the following paragraphs of this Group | First. |
| (b) Articles made wholly or partly of rough-tanned, undyed sheep or lamb skin with wool attached and designed specially for industrial use | First. |
| (c) Articles made wholly or partly of fur skin (including any skin with fur, hair or wool attached) other than those comprised in paragraphs (b) or (d) of this Group | Third. |
| (d) Utility articles | Exempt. |
| (e) Protective helmets designed for use by miners or quarrymen | Exempt. |
| (f) Wigs | Exempt. |
| (g) Surgical appliances | Exempt. |
| (h) Articles knitted or crocheted by hand without mechanical aid, including such articles embroidered by hand-needlework | Exempt. |

GROUP 3.

Gloves:—

- | | |
|--|---------|
| (a) Articles not comprised in any of the following paragraphs of this Group | First. |
| (b) Articles made wholly or partly of rough-tanned, undyed sheep or lamb skin with wool attached and designed specially for industrial use | First. |
| (c) Articles made wholly or partly of fur skin (including any skin with fur, hair or wool attached) other than those comprised in paragraphs (b) or (d) of this Group | Third. |
| (d) Utility articles | Exempt. |
| (e) Surgical appliances | Exempt. |
| (f) Articles knitted or crocheted by hand without mechanical aid, including such articles embroidered by hand-needlework | Exempt. |

8TH SCH
—cont.

GROUP 4.

Haberdashery, including patterns for making apparel:—

- | | |
|---|---------|
| (a) Articles not comprised in any of the following paragraphs of this Group | First. |
| (b) Articles made wholly or partly of fur skin (including any skin with fur, hair or wool attached) | Third. |
| (c) Utility articles | Exempt. |
| (d) Sewing thread, and mending and knitting wool | Exempt. |
| (e) Articles knitted or crocheted by hand without mechanical aid, including such articles embroidered by hand-needlework | Exempt. |

GROUP 5.

Textile articles of a kind used for domestic purposes and articles made of any material which are of a kind used as domestic soft furnishings or as domestic bedding:—

- | | |
|---|----------------------------------|
| (a) Articles not comprised in any of the following paragraphs of this Group | Second. |
| (b) Utility articles | Exempt. |
| (c) Floor coverings | Not chargeable under this Group. |
| (d) Articles of bedding of the following descriptions, not being utility articles, that is to say, pillows, bolsters, soft-filled mattresses and upholstered spring-interior mattresses... .. | First. |

GROUP 6.

Tissues and fabrics:—

- | | |
|---|---------|
| (a) Tissues and fabrics whether in the piece, shaped or partly made-up, including such tissues and fabrics which have been dyed, printed, coated or otherwise treated, but not including tissues and fabrics comprised in any of the following paragraphs of this Group:— | |
| (i) not exceeding three inches in width | First. |
| (ii) exceeding three inches in width | Second. |
| (b) Utility cloth | Exempt. |
| (c) Fabrics of the following descriptions, not being woven-figured fabrics, pile fabrics, braids, fringes, gimps or similar trimmings, furnishing fabrics, suitings or overcoatings, or fabrics which have been bleached, printed, embroidered or otherwise decorated:— | |
| (i) jute fabrics | Exempt. |
| (ii) felt fabrics | Exempt. |
| (iii) glass fibre fabrics | Exempt. |
| (iv) asbestos fabrics | Exempt. |

(v) woven fabrics not containing wool which weigh not less than 12 ounces per square yard	Exempt.
(vi) woven fabrics containing wool which weigh not less than 18 ounces per square yard	Exempt.
(d) Bolting cloth	Exempt.
(e) Machinery belting	Exempt.
(f) Tracing cloth	Exempt.
(g) Abrasive cloth	Exempt.
(h) Varnished or bitumenised cloth and varnished or bitumenised tape of the kinds used for the purpose of electrical insulation ...	Exempt.
(i) Netting of cordage, rope or twine, including fishing net, but not including composite fabrics incorporating such netting and not including sports netting	Exempt.
(j) Rags	Exempt.
(k) Lamp wick	Exempt.
(l) Fabrics of a kind suitable for and prepared or put up in special packs as surgical dressings	Exempt.
(m) Floor coverings	Not chargeable under this Group.

GROUP 7.

Plastic sheeting in the piece or in cut lengths of a kind suitable for making garments or curtains, tablecloths and similar soft furnishings Second.

GROUP 8.

Fur skin (including any skin with fur, hair or wool attached), dressed Third.

GROUP 9.

- | | |
|--|---------|
| (a) Floor coverings | First. |
| (b) (i) Rugs made of fur skin (including any skin with fur, hair or wool attached)... .. | Third. |
| (ii) Other rugs, except floor rugs | Second. |

GROUP 10.

- | | |
|--|---------|
| (a) Wallpaper | First. |
| (b) Window display papers, being fancy papers coated, stained, printed, embossed, laminated or otherwise decorated, including coated poster papers, but not including such papers cut to size suitable for use as box papers or as printing paper | First. |
| (c) Paper serviettes, paper doyleys, paper table covers, paper table decorations, shelf paper, and similar articles of paper | Second. |

8TH SCH.
—cont.

GROUP II.

Furniture, hardware, ironmongery, turnery, table-ware, kitchen-ware and toilet-ware, being articles of a kind used for domestic or office purposes:—

- | | |
|---|----------------------------------|
| (a) Articles not comprised in any of the following paragraphs of this Group | First. |
| (b) (i) Tables, desks, chairs, sideboards, beds, chests, drawers, cupboards and similar furniture, except those comprised in subparagraph (iii) of this paragraph or in paragraph (e) or paragraph (n) of this Group | Second. |
| (ii) Wire and spring mattresses except those comprised in paragraph (e) of this Group | Second. |
| (iii) Cupboards and dressers designed for use in kitchens, except those comprised in paragraph (e) or paragraph (n) of this Group | First. |
| (c) Mirrors, whether framed or not | Third. |
| (d) Glassware of cut glass | Third. |
| (e) Utility furniture and component parts of utility furniture | Exempt. |
| (f) Invalid chairs | Exempt. |
| (g) Picture frames of wood, plain, gilt or coloured, with or without ornamental composition, which are made from moulding of a width not less at any point than three inches | Exempt. |
| (h) Metal clothes lockers of a kind installed in cloakrooms other than domestic cloakrooms ... | Exempt. |
| (i) Vessels designed for use primarily as containers for food or drink in the course of its storage, preparation or consumption, and lids for use with such vessels, but not including articles of cut glass, articles made wholly or partly of stainless steel, articles coated or plated with silver, or articles of nickel, Britannia metal, nickel silver, pewter or similar metals ... | Not chargeable under this Group. |
| (j) Household brooms and household brushes ... | Exempt. |
| (k) Dustbins, buckets, pails and sanitary pans, and lids for any of those articles | Exempt. |
| (l) Thermal insulation covers designed for domestic water systems | Exempt. |
| (m) Thermostats | Exempt. |
| (n) Builders' hardware, sanitary ware and other articles of kinds ordinarily installed by builders as fixtures | Not chargeable under this Group. |
| (o) Fireguards, except those incorporating heating elements | Exempt. |

- (p) Accessories for domestic stoves, grates, ranges and fireplaces, being accessories designed for use as fuel economisers, the following:—
- (i) fire-bricks and similar articles Exempt.
 - (ii) accessories designed so as, when placed above the fuel in an open fire, temporarily to convert the fire into an enclosed fire ... Exempt.
- (q) Trivets and similar articles being accessories for domestic stoves, grates, ranges and fireplaces Exempt.
- (r) Parallel-sided or tapered baths of galvanised steel not less than 42 inches in length over all ... Exempt.

GROUP 12.

Cooking, heating, refrigerating and other appliances and apparatus, whether mechanically operated or not, being appliances and apparatus of a kind used for domestic purposes, except mechanical lighters:—

- (a) Appliances and apparatus not comprised in any of the following paragraphs of this Group First.
- (b) Space heating appliances (including appliances 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 and water boilers for tank storage or central heating—
- (i) suitable for operation from electric mains, except appliances comprised in paragraph (e) of this Group Third.
 - (ii) suitable for operation from gas mains... Second.
- (c) Cooking, space heating and water heating appliances (other than appliances comprised in paragraph (b) of this Group) of the following descriptions:—
- (i) stoves, grates, ranges, fireplaces and ovens Exempt.
 - (ii) boiling rings, grillers and hot-plates Exempt.
 - (iii) radiators and convectors Exempt.
 - (iv) storage water heaters Exempt.
 - (v) circulator water heaters for tank storage Exempt.
 - (vi) water boilers for tank storage or central heating Exempt.
- (d) Parts of such stoves, grates, ranges, fireplaces and ovens as are comprised in paragraph (c) of this Group Exempt.

8TH SCH.
—cont.

- (e) Space heating appliances incorporating electric fans or electric pumps, or both such fans and such pumps, designed to consume in all not more than 100 watts, but not including appliances otherwise electrically operated and not including appliances operated by gas ... Exempt.
- (f) Wash boilers and wash coppers ... Exempt.
- (g) Electric kettles and other cooking utensils incorporating heating elements ... Exempt.
- (h) Smoothing irons and pressing irons ... Exempt.

GROUP 13.

Cutlery suitable for domestic or personal use and spoons, forks and similar articles suitable for domestic use:—

- (a) Articles not comprised in any of the following paragraphs of this Group and blanks of articles not so comprised ... First.
- (b) Articles designed for use solely in the course of any trade, profession, employment or vocation and unsuitable for use for other purposes Exempt.
- (c) Articles consisting of a knife and fork combined, specially designed for use by persons not having the full use of their arms, and other articles specially designed for use by such persons ... Exempt.

GROUP 14.

- (a) Fittings of a kind used for interior domestic or office lighting except those comprised in paragraph (d) of this Group:—
 - (i) table and floor standards (whether complete or not) ... First.
 - (ii) brackets, pendants, candelabra and electroliers ... First.
 - (iii) lanterns, shades, bowls and reflectors... First.
 - (iv) glass chimneys and similar primary glasses being chimneys and glasses designed for candle lamps ... Exempt.
 - (v) other illuminating glassware ... First.
- (b) Incandescent mantles except those comprised in paragraph (d) of this Group ... First.
- (c) Electric filament lamps not exceeding 250 watts and fluorescent lighting tubes not exceeding 80 watts ... First.
- (d) Oil-burning lamps of a kind used for interior domestic or office lighting and accessories for such lamps:—
 - (i) articles not comprised in the following sub-paragraphs of this paragraph ... Exempt.
 - (ii) incandescent mantles, and glass chimneys and similar primary glasses ... Exempt.
 - (iii) globes, shades and reflectors ... First.

GROUP 15.

Hand lamps and hand torches:—

- (a) Articles not comprised in any of the following paragraphs of this Group First.
- (b) Acetylene hand lamps Exempt.
- (c) Miners' safety lamps Exempt.

GROUP 16.

- (a) Lawn mowers and garden rollers First.
- (b) Garden furniture Second.
- (c) Garden ornaments Third.

GROUP 17.

(a) Clocks and watches:—

- (i) articles not comprised in any of the following sub-paragraphs of this paragraph First.
- (ii) clocks and watches made wholly or partly of gold, silver or other precious metal (including gold plate, but not including base metal which is gilt or silver-plated) Third.
- (iii) clocks designed for use as public clocks with dials not less than 2 feet in diameter or with dials having a diagonal measurement of 2 feet 6 inches or more Exempt.

(b) Clock movements and watch movements:—

- (i) articles not comprised in any of the following sub-paragraphs of this paragraph First.
- (ii) movements, complete with hands, designed for mechanical and impulse clocks with dials not less than 2 feet in diameter or with dials having a diagonal measurement of 2 feet 6 inches or more Exempt.
- (iii) movements, complete with hands, designed for synchronous clocks with dials not less than 2 feet 6 inches in diameter or with dials having a diagonal measurement of 3 feet or more Exempt.

(c) Cases for, and accessories to, clocks and watches, and watch chains, wristlet watch straps and similar articles:—

- (i) articles not comprised in the following sub-paragraph of this paragraph ... First.
- (ii) articles made wholly or partly of gold, silver or other precious metal (including gold plate, but not including base metal which is gilt or silver-plated) ... Third.

8TH SCH.
—cont.

GROUP 18.

- (a) Wireless receiving sets of the domestic, portable or road vehicle types (including kits of parts, whether or not assembled and whether or not complete, of a kind used in the assembly of such sets) and valves suitable for use therewith First.
- (b) Batteries and accumulators suitable for use with wireless receiving sets of the domestic or portable type, other than dry batteries of not more than 6 volts First.

GROUP 19.

- (a) Musical instruments including gramophones, radiogramophones, player pianos and similar instruments, and parts thereof and accessories thereto:—
 - (i) articles and parts thereof and accessories thereto not comprised in any of the following sub-paragraphs of this paragraph Second.
 - (ii) pipe organs, electronic organs and reed organs (except the types designed to be carried when played) and parts thereof and accessories thereto ... Exempt.
 - (iii) gramophones specially designed for reproduction of speech from records specially adapted for the use of the blind Exempt.
- (b) Player piano records and gramophone records other than gramophone records for the reproduction of speech, specially adapted for the use of the blind Second.

GROUP 20.

Toys and games (including coin or disc operated machines), and appliances, apparatus, accessories and requisites for sports, games, amusements, gymnastics or athletics (not being garments, footwear, road vehicles, bicycles or tricycles) including parts thereof and accessories thereto:—

- (a) Articles not comprised in any of the following paragraphs of this Group First.
- (b) Swings, slides (including water chutes), seesaws, roundabouts and giant strides, not being mechanically operated articles Exempt.
- (c) Gliders large enough to carry human beings, and accessories for such gliders Exempt.
- (d) Boats and other vessels large enough to carry human beings, and accessories for such boats and vessels Exempt.

GROUP 21.

8TH SCH.
—cont.

- (a) Umbrellas and sunshades Second.
- (b) Walking sticks and canes:—
- (i) wholly of wood, except for the ferrules First.
- (ii) other kinds Third.

GROUP 22.

Smokers' requisites, except matches and mechanical lighters Second.

GROUP 23.

Trunks, bags, wallets, jewel cases, pouches, purses, suit cases, attaché cases, baskets and similar receptacles of a kind used for personal or domestic purposes (whether fitted or not):—

- (a) Articles not comprised in any of the following paragraphs of this Group Second.
- (b) Articles made of leather, hide or skin:—
- (i) designed for use solely for the purpose of any trade, profession, employment or vocation and unsuitable for use for other purposes Second.
- (ii) other articles Third.
- (c) Articles which, except for external fitments, and except for bottoms of wood or other vegetable substance, are made wholly of cane or wicker First.

GROUP 24.

- (a) Photographic cameras and photographic enlargers and lenses and other parts of, and accessories to, photographic cameras and photographic enlargers:—
- (i) articles not comprised in any of the following sub-paragraphs of this paragraph Second.
- (ii) cinematograph cameras for film of standard width and parts of, and accessories to, such cameras Exempt.
- (iii) articles suitable only for industrial, scientific or military use Exempt.
- (b) Unexposed sensitised photographic paper, cloth, plates and film:—
- (i) articles not comprised in any of the following sub-paragraphs of this paragraph Second.
- (ii) cinematograph film of standard width Exempt.
- (iii) X-ray plates, film and paper Exempt.
- (iv) ferro-prussiate, ferro-gallic and dye-line paper and cloth Exempt.
- (v) document base paper, transparent tracing paper base and tracing cloth Exempt.

8TH SCH.
—cont.

GROUP 25.

Pictures, prints, engravings, photographs, figures, busts, reliefs, vases, and similar articles, of a kind produced in quantity for general sale:—

- | | |
|--|----------------------------------|
| (a) Articles not comprised in any of the following paragraphs of this Group | Third. |
| (b) 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 | Second. |
| (c) Cinematograph films, film-strips and lantern slides, being films, film-strips and lantern slides containing pictures for exhibition by means of a projector | Exempt. |
| (d) Wallpaper | Not chargeable under this Group. |

GROUP 26.

Jewellery and imitation jewellery, being articles consisting wholly or partly of stones or beads (precious, semi-precious or imitation) or of pearls (real, cultured or imitation)

Third.

GROUP 27.

- (a) Goldsmiths' and silversmiths' wares, being articles made wholly or partly of gold, silver or other precious metal (including gold plate but not including base metal which is gilt or silver-plated), other than articles comprised in the following paragraph of this Group ...
- (b) Miniatures or reproductions of the insignia of orders, decorations and medals granted by the Sovereign or conferred by or in the gift of a foreign Sovereign State or the Head of a foreign Sovereign State, and ribbons, bars and clasps designed for wear with, or with miniatures or reproductions of, such orders, decorations and medals (including made-up ribbon bars)

Third.

Exempt.

GROUP 28.

- (a) Articles made wholly or partly of ivory, amber, jet, coral, natural shells or tortoise-shell, or of jade, onyx, lapis lazuli or other semi-precious stones
- (b) Articles made wholly or partly of mother-of-pearl other than buttons and studs

Third.

Third.

GROUP 29.

8TH SCH.
—cont.

Fancy or ornamental articles suitable for personal or domestic use, and of a kind produced in quantity for general sale:—

- (a) which consist of or incorporate figures, or which are decorated by hand-painting, or which are miniatures of or otherwise imitate other articles Third.
- (b) of other descriptions, not being articles chargeable under any other Group Second.

GROUP 30.

- (a) Hair waving machines and similar hair waving appliances First.
- (b) Hair drying machines First.

GROUP 31.

Toilet requisites except face cloths and towels:—

- (a) Articles not comprised in the following paragraph of this Group Third.
- (b) Brushes, combs, scissors, razors and razor blades, razor strops, razor sharpeners, dry shavers and dry shaver heads, sponges, toilet paper, dental sticks and toothpicks, not being articles supplied as part of a toilet set ... First.

GROUP 32.

- (a) Perfumery Third.
- (b) Toilet preparations, whether medicated or not, including cosmetics:—
- (i) articles not comprised in the following sub-paragraph of this paragraph ... Third.
- (ii) soap made up for sale as toilet soap; soap substitutes made up for sale as substitutes for toilet soap; shaving creams; shampoos; dentifrices; eye lotions, mouth washes and antiseptics; calamine lotion and similar alleviating toilet preparations, unperfumed ... First.

GROUP 33.

Drugs and medicines, manufactured or prepared (except toilet preparations):—

- (a) not comprised in any of the following paragraphs of this Group First.
- (b) complying with the provisions of Part II of this Schedule Exempt.
- (c) specified in the Schedule to the Purchase Tax (No. 1) Order, 1948 Exempt.

8TH SCH.
—cont.

GROUP 34.

- (a) Diaries, calendars, greeting cards and similar articles First.
- (b) Stationery and office requisites except furniture and machinery First.

GROUP 35.

- (a) 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, other than vehicles comprised in any of the following paragraphs of this Group:—
- (i) mechanically propelled vehicles of a retail value of more than one thousand two hundred and eighty pounds the vehicle Second.
- (ii) other mechanically propelled vehicles First.
- (iii) vehicles not mechanically propelled ... First.
- (b) Bicycles and tricycles (whether mechanically propelled or not) constructed or adapted solely or mainly for the carriage of passengers ... First.
- (c) Ambulances, invalid carriages and perambulators.
- Tramcars, trolley vehicles and other vehicles constructed to carry not less than twelve passengers.
- Vehicles of not less than 3 tons unladen weight.
- Prison vans and fire tenders.
- Caravans.
- Vehicles of the following descriptions in which the accommodation for carrying passengers is only incidental to the use of the vehicle for other purposes:—
- bullion vans;
- mobile cinemas, sound film production vehicles and similar vehicles;
- mobile canteens, mobile clinics, travelling libraries, travelling shops, travelling show rooms and similar vehicles;
- mobile printing presses and other mobile workshops;
- pantehnicons and horse boxes;
- hearses but not including hearsettes;
- tower wagons, road construction, road cleansing, road watering, refuse collecting and similar vehicles ... Exempt.

PART II.

DRUGS AND MEDICINES.

1. In this Part of this Schedule there are set out the provisions mentioned in the Group relating to drugs and medicines in Part I of this Schedule.

2. The goods, apart from any get-up, must consist solely of one or more substances described in—

- (a) any monograph in any edition of the British Pharmacopœia ;
or
- (b) any monograph, or the Formulary, in any edition of the British Pharmaceutical Codex ; or
- (c) the National (War) Formulary issued by His Majesty's Stationery Office ; or
- (d) any Formulary approved by the Minister of Health for the purposes of the National Health Service,

but may be compounded with one or more of the following things, namely, an excipient, vehicle, base or preservative.

3.—(1) The goods must be in a container and each container for the goods must have conspicuously written thereon, or have a label on which is conspicuously written, the particulars mentioned in sub-paragraph (2) of this paragraph as respects each constituent of the goods described in any such monograph or Formulary as aforesaid.

(2) The said particulars are the name set out at the head of the monograph or the relevant formula and a reference (which may be abbreviated) to the Pharmacopœia, Codex or Formulary in which the monograph or formula appears :

Provided that any synonym or abbreviation set out at the head of the monograph or formula may be used instead of the name.

(3) Any container may also have written thereon, or have a label on which is written—

- (a) directions as to use and storage ;
- (b) quantitative particulars ;
- (c) the manufacturer's batch number ;
- (d) the price of the goods ; and
- (e) in writing not more conspicuous than that in which the particulars required under sub-paragraph (1) of this paragraph are written, any of the following matters, that is to say, the name and address of the maker, seller, supplier and distributor of the goods.

4. Anything, other than a container or label, forming part of the get-up of the goods, and the goods, apart from any get-up, may have written thereon anything required or permitted by this Part of this Schedule to be written on any container or label.

8TH SCH.
—*cont.*

1 & 2 Geo. 6.
c. 22.

5. Except so far as is required or permitted by the preceding provisions of this Part of this Schedule, and except so far as is required by virtue of any Act (including any Act of the Parliament of Northern Ireland) there must not be any writing or any trade mark as defined in the Trade Marks Act, 1938, in the get-up of the goods or on the goods, apart from any get-up.

Section 37.

NINTH SCHEDULE.

AGREEMENT BETWEEN THE UNITED KINGDOM GOVERNMENT AND THE EIRE GOVERNMENT AMENDING THE AGREEMENT OF 1926 (AS AMENDED BY THE AGREEMENT OF 1928) IN RESPECT OF DOUBLE INCOME TAX.

With a view to making such alterations in the Agreement dated the 14th April, 1926, (as amended by the Agreement dated the 25th April, 1928) made between the British Government and the Government of the Irish Free State in respect of Double Income Tax as may be necessary in consequence of the alterations in the British Income Tax Acts effected by section 52 of the British Finance (No. 2) Act, 1945, it is hereby agreed between the United Kingdom Government and the Eire Government that the said Agreement (as amended as aforesaid) shall be further amended as follows :—

1. In Article 1 (a) of the said Agreement, the words " British income tax " shall, as regards any dividend in respect of which relief or repayment in respect of the tax deducted or authorised to be deducted therefrom is restricted by section 52(2)(a) of the British Finance (No. 2) Act, 1945, to " the net United Kingdom rate " therein referred to, be construed as meaning British income tax at the said net United Kingdom rate applicable to such dividend for the purposes of the said section.

2. The rate of relief to be allowed from British income tax under Article 2(1)(a) of the said Agreement shall, as regards any dividend such as is mentioned in Article 1 of this Agreement, not exceed, in the case of a person whose income is chargeable to British income tax at the standard rate only, the net United Kingdom rate applicable to such dividend for the purposes of the said section 52(2)(a) and, in the case of a person part of whose total income for any year is chargeable to British income tax at a rate or rates in excess of the standard rate, the sum of the following rates :

- (i) the said net United Kingdom rate, and
- (ii) the rate ascertained by dividing the amount of the British sur-tax payable by that person for that year by the amount of his total income for that year.

3. This Agreement shall have effect for the year 1948-49 and subsequent years.

9TH SCH.
—cont.

4. This Agreement shall be subject to confirmation by legislation both by the United Kingdom Parliament and by the Oireachtas, and shall have effect only if and so long as that legislation is in force.

Done in duplicate the 21st day of July, 1947.

For the
United Kingdom Government

For the
Eire Government

HUGH DALTON

PROINSIAS MAC AOGÁIN

Chancellor of the Exchequer

Minister for Finance.

TENTH SCHEDULE.

Sections 49 & 60.

SPECIAL PROVISIONS AS TO WORKING DIRECTORS.

1. Where on an application in that behalf it is shown to the satisfaction of the Special Commissioners as respects any individual that during a period (hereinafter referred to as "the relevant period") being or comprised in the year 1947-48 he was a working director of a company which during the relevant period was a private company and was not an investment company, the following provisions shall have effect.

2.—(1) Where investment income of his for the year 1947-48 consisted of income from share capital of the company, his income from such share capital shall not be treated as investment income except in so far as it exceeds the standard amount specified in the next following sub-paragraph reduced by the amount of his emoluments from the company as a working director for the relevant period, being emoluments which fall to be included in his total income for the year 1947-48.

(2) The standard amount hereinbefore referred to is the amount applicable under head (a) of this sub-paragraph or the amount applicable under head (b) thereof, whichever is the greater, that is to say—

- (a) two thousand pounds, or that amount reduced, where the relevant period was less than a year, in the proportion which the relevant period bears to a year ;
- (b) fifteen thousand pounds, or that amount reduced as aforesaid, or fifteen per cent. of the profits of the company for the relevant period, whichever is the less, divided by the number of persons who during the relevant period were working directors of the company.

10TH SCH.
—cont.

(3) If head (b) of the last foregoing sub-paragraph has effect and the number of the working directors of the company changed during the relevant period, that sub-paragraph shall apply as if each period during which that number was constant were a separate relevant period.

3. An application under paragraph 1 of this Schedule may be made either before or after an assessment to contribution has been made, but shall not be made later than the thirty-first day of December, nineteen hundred and fifty.

4.—(1) Effect shall be given to any adjustment of investment income required by paragraph 2 of this Schedule either by discharge or reduction of the assessment in question, or by repayment of contribution to the persons by whom it was paid or from whom it was recovered, or by all or any of those means, as the case may require.

(2) Where contribution is repaid under this Schedule, there shall also be repaid any interest paid in respect of that contribution.

(3) Where under this Schedule repayment is made of any contribution the whole or any part of which was discharged by payment in advance, the amount of the repayment shall be calculated as if the payment in advance had been made in respect of the contribution as adjusted under this Schedule and as if the interest referred to in subsection (2) of section fifty-four of this Act had been calculated accordingly.

5.—(1) In this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“ company ” means a company within the meaning of the Companies Act, 1929, or the Companies Act (Northern Ireland), 1932 ;

“ director ” includes any person occupying the position of director by whatever name called, and any person in accordance with whose directions or instructions the directors of a company are accustomed to act ;

“ investment company ” has the same meaning as in section twenty of the Finance Act, 1936 ;

“ private company ” means a private company within the meaning of the said Act of 1929 or the said Act of 1932, being a company the directors whereof had a controlling interest therein, so however that for the purposes of this definition no body corporate shall be treated as a director unless it was during the relevant period itself a company the directors whereof had a controlling interest therein ;

“ working director ”, in relation to a company, means any director thereof who during the period in question worked full time in the actual management or conduct of the trade or business of the company.

(2) Where during a period being or comprised in the year 1947-48 an individual was a director of two or more private companies which, within the meaning of section eighteen of the Companies Act, 1947, either were a holding company and one or more subsidiary companies thereof or were subsidiary companies of the same holding company, and during that period he worked full time in the actual management or conduct of the trades or businesses of the companies taken together, he shall be treated as a working director of such one of the companies as he selects and the provisions of this Schedule shall apply accordingly but subject to the following modifications :—

- (a) the aggregate of his emoluments from all the companies as a director for the said period, being emoluments which fall to be included in his total income for the year 1947-48, shall be treated for the purposes of sub-paragraph (1) of paragraph 2 of this Schedule as if they were emoluments from the company of which he is to be treated as a working director ;
- (b) he may require that investment income from share capital of all the companies shall be treated as if it were investment income from share capital of the said company :

Provided that nothing in this sub-paragraph shall affect the operation of this Schedule in relation to a director who would be a working director apart from this sub-paragraph.

(3) For the purposes of this Schedule, the profits of a company shall be taken to be the profits as computed, without abatement and including franked investment income, for the purposes of the profits tax, except that—

- (a) no deduction shall be made in respect of the remuneration of working directors ; and
- (b) all remuneration of other directors shall be deducted.

(4) Where the relevant period comprises one or more accounting periods or parts of accounting periods of the company for the purposes of the profits tax, the profits of the company for the relevant period shall be ascertained in accordance with the last foregoing sub-paragraph by aggregating the profits for the said periods or parts of periods ; and for the purposes of this sub-paragraph the profits for part of an accounting period shall be ascertained by apportioning the profits for the whole period according to the number of months and fractions of months in the said part of the period and in the remainder thereof.

ELEVENTH SCHEDULE.

ENACTMENTS REPEALED.

PART I.

MISCELLANEOUS.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 35.	The Customs Tariff Act, 1876.	In the Schedule, the word "prunes" and the words and figures "the cwt. 0.7.0." opposite thereto.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	In section ninety-five, the words "not being British flavoured or compounded spirits, and".
54 & 55 Vict. c. 39.	The Stamp Act, 1891.	In the First Schedule, the heading "Faculty or Dispensation of any other kind".
6 & 7 Geo. 5. c. 11.	The Finance (New Duties) Act, 1916.	Sections four and six.
6 & 7 Geo. 5. c. 24.	The Finance Act, 1916.	Sections seven and nine.
14 & 15 Geo. 5. c. 21.	The Finance Act, 1924.	Section ten.
22 & 23 Geo. 5. c. 53.	The Ottawa Agreements Act, 1932.	In Part I of the Second Schedule, the word "prunes".
24 & 25 Geo. 5. c. 32.	The Finance Act, 1934.	In subsection (2) of section six, the proviso.
25 & 26 Geo. 5. c. 24.	The Finance Act, 1935.	In subsection (1) of section eight, the proviso.
2 & 3 Geo. 6. c. 41.	The Finance Act, 1939.	Paragraph (b) of subsection (2) of section seven.
3 & 4 Geo. 6. c. 48.	The Finance (No. 2) Act, 1940.	Sections nineteen, twenty and twenty-eight, and the Seventh Schedule.
5 & 6 Geo. 6. c. 21.	The Finance Act, 1942.	Subsections (1) and (3) of section seventeen; subsections (1) to (3) of section eighteen; and the Seventh and Eighth Schedules.
7 & 8 Geo. 6. c. 23.	The Finance Act, 1944.	In Part I of the Second Schedule, the provisions relating to subsection (3) of section twenty of the Finance (No. 2) Act, 1940, and subsection (3) of section eighteen of the Finance Act, 1942.
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act, 1945.	Section one and the First Schedule.
9 & 10 Geo. 6. c. 64.	The Finance Act, 1946.	Section fifteen; in subsection (2) of section sixteen the words from "and subsections (3) and (4)" to the end of the subsection; section twenty-three (except as respects

Session and Chapter.	Short Title.	Extent of Repeal.
9 & 10 Geo. 6. c. 64.—cont.	The Finance Act, 1946. —cont.	changes in the incidence or rates of purchase tax taking effect before the passing of this Act); the Third Schedule; and in the Fifth Schedule, paragraph 1.
10 & 11 Geo. 6. c. 35.	The Finance Act, 1947.	Sections ten, eleven and twelve; in subsection (1) of section sixty-three, the words "and the enactments relating to the profits tax" (except as respects remuneration accruing before the sixth day of April, nineteen hundred and forty - eight) ; the Third Schedule ; Part I of the Fourth Schedule ; and the Fifth and Sixth Schedules.
11 & 12 Geo. 6. c. 9.	The Finance (No. 2) Act, 1947.	Subsections (1) and (3) of section one; sections two, three, four and five; Parts I, III and IV of the First Schedule; and the Second, Third and Fourth Schedules.

PART II.

ENACTMENTS REPEALED AS RESPECTS 1949-50 AND SUBSEQUENT YEARS OF ASSESSMENT.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Geo. 5. c. 40.	The Income Tax Act, 1918.	In subsection (3) of section thirty-two, sub-paragraph (i) of paragraph (e) ; in subsection (1) of section thirty-four, the words " or in the occupation of lands for the purposes of husbandry only; in that part of Schedule B which precedes the Rules applicable to that Schedule, all the words after " means in relation to tax under this Schedule " except the words " an amount equal to one-third of the annual value " ; in the Rules applicable to Schedule B, in Rule 1, from the word " unless " to the end of the Rule, and Rule 6; and Rule 4 of the Rules applicable to Case III of Schedule D.
11 & 12 Geo. 5. c. 32.	The Finance Act, 1921.	The proviso to paragraph (b) of subsection (1) of section thirty.

11TH SCH.
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
16 & 17 Geo. 5. c. 22.	The Finance Act, 1926.	In subsection (1) of section thirty-four, the words "or of the occupation of any land occupied solely or mainly for the purposes of husbandry"; and in subsection (1) of section thirty-five, the words "Rule 4 of Case III".
20 & 21 Geo. 5. c. 28.	The Finance Act, 1930.	In section fourteen, the words "or of the occupation of any land occupied solely or mainly for the purpose of husbandry".
23 & 24 Geo. 5. c. 19.	The Finance Act, 1933.	In subsection (1) of section thirty-one, the words "or under Rule 4 of the Rules applicable to Case III of Schedule D (which relates to the profits of certain cattle dealers and milk dealers)".
4 & 5 Geo. 6. c. 30.	The Finance Act, 1941.	In section ten, the words "Subject, as respects farming and farm land, to the provisions of the next succeeding section" and section eleven.
5 & 6 Geo. 6. c. 21.	The Finance Act, 1942.	Section twenty-eight.
8 & 9 Geo. 6. c. 32.	The Income Tax Act, 1945.	In section thirty-four, in the definition of "agricultural income" the words "or Schedule B".
10 & 11 Geo. 6. c. 35.	The Finance Act, 1947.	Paragraphs (b) and (c) of subsection (2) of section sixty-seven.

TABLE II.

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2, and schedules 2 and 3. Agricultural wages committees for counties and combinations of counties, pp. 1024, 1039, 1040.

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- 3, and schedule 4. Power of Agricultural Wages Board to fix rates of wages, and holidays, pp. 1025, 1041.
4. Enforcement of wages and holidays orders, p. 1027.
5. Permits to incapacitated persons, p. 1028.
6, and schedule 4. Provisions as to learners, pp. 1029, 1041.
7, and schedule 4. Reckoning of benefits and advantages as payment of wages, pp. 1031, 1041.
8. Power of agricultural wages committee to award additional wages for piece work in certain cases, p. 1032.
9. Provisions as to applications, &c., to agricultural wages committees, p. 1032.
10. Criminal liability of agents and special defence open to employer, p. 1032.
11. Avoidance of agreements in contravention of this Act and saving for other agreements, &c., p. 1033.

Supplementary.

12. Officers, p. 1033.
13. Annual reports, p. 1035.
14. Expenses, p. 1035.
15. Evidence of resolutions and orders of the Board and agricultural wages committees, p. 1035.
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17. Interpretation, p. 1035.
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20, and schedule 5. Repeal and savings, pp. 1037, 1043.
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- 5, and schedule 2. Compensation for disturbance, pp. 923, 986.
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