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THE
PUBLIC GENERAL ACTS
AND CHURCH ASSEMBLY MEASURES

1968

with
Lists of the Public General Acts
and Local Acts
and a Table of the Effect of Legislation
and an Index

[IN TWO PARTS]

PART I

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**The Public General Acts
and Church Assembly Measures
which received the Royal Assent in 1968
in which year ended the SIXTEENTH
and began the SEVENTEENTH YEAR
of the Reign of HER MAJESTY
QUEEN ELIZABETH THE SECOND
and
ended the Second Session
and began the Third Session
of the Forty-Fourth Parliament of the
United Kingdom of Great Britain
and Northern Ireland**

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THE PUBLIC GENERAL ACTS OF 1968

Consolidated Fund Act 1968

1968 CHAPTER 1

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on 31st March 1968.

[1st February 1968]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this Session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen'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 Her Majesty for the service of the year ending on 31st March 1968 the sum of £351,701,000. Issue out of the Consolidated Fund for the year ending 31st March 1968.

2.—(1) The Treasury may borrow from any person by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sum, any sum or sums not exceeding in the whole £351,701,000. 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 31st March 1968, and section 6 of the Treasury Bills Act 1877 (which relates to the renewal of bills) shall not apply with respect to those bills. 1877 c. 2.

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(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with any interest payable thereon, out 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.

Short title.

3. This Act may be cited as the Consolidated Fund Act 1968.



Provisional Collection of Taxes Act 1968

1968 CHAPTER 2

An Act to consolidate the Provisional Collection of Taxes Act 1913 and certain other enactments relating to the provisional collection of taxes or matters connected therewith. [1st February 1968]

B E IT ENACTED by the Queen'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) This section applies only to income tax, purchase tax and duties of customs and excise. Temporary statutory effect of House of Commons resolutions affecting income tax, purchase tax or customs or excise duties.
- (2) Subject to that, and to the provisions of subsections (4) to (8) below, where the House of Commons passes a resolution which—
- (a) provides for the renewal for a further period of any tax in force or imposed during the previous financial year (whether at the same or a different rate, and whether with or without modifications) or for the variation or abolition of any existing tax, and
 - (b) contains a declaration that it is expedient in the public interest that the resolution should have statutory effect under the provisions of this Act,

the resolution shall, for the period specified in the next following subsection, have statutory effect as if contained in an Act of Parliament and, where the resolution provides for the renewal of a tax, all enactments which were in force with reference to that tax as last imposed by Act of Parliament shall during that period have full force and effect with respect to the tax as renewed by the resolution.

In this section references to the renewal of a tax include references to its reimposition, and references to the abolition of a tax include references to its repeal.

(3) The said period is—

(a) in the case of a resolution passed in March or April in any year, one expiring with 5th August in the same calendar year ;

(b) in the case of any other resolution, one expiring at the end of four months after the date on which it is expressed to take effect or, if no such date is expressed, after the date on which it is passed.

(4) A resolution shall cease to have statutory effect under this section unless within the next twenty-five days on which the House of Commons sits after the day on which the resolution is passed—

(a) a Bill renewing, varying or, as the case may be, abolishing the tax is read a second time by the House, or

(b) a Bill is amended by the House so as to include provision for the renewal, variation or, as the case may be, abolition of the tax.

(5) A resolution shall also cease to have statutory effect under this section if—

(a) the provisions giving effect to it are rejected during the passage of the Bill containing them through the House, or

(b) an Act comes into operation renewing, varying or, as the case may be, abolishing the tax, or

(c) Parliament is dissolved or prorogued.

(6) Where, in the case of a resolution providing for the renewal or variation of a tax, the resolution ceases to have statutory effect by virtue of subsection (4) or (5) above, or the period specified in subsection (3) above terminates, before an Act comes into operation renewing or varying the tax, any money paid in pursuance of the resolution shall be repaid or made good, and any deduction made in pursuance of the resolution shall be deemed to be an unauthorised deduction.

(7) Where any tax as renewed or varied by a resolution is modified by the Act renewing or varying the tax, any money paid in pursuance of the resolution which would not have been payable under the new conditions affecting the tax shall be repaid or made good, and any deduction made in pursuance of the resolution shall, so far as it would not have been authorised under the new conditions affecting the tax, be deemed to be an unauthorised deduction.

(8) When during any session a resolution has had statutory effect under this section, statutory effect shall not be again given under this section in the same session to the same resolution or to a resolution having the same effect.

2.—(1) Any payment or deduction made on account of a temporary tax to which section 1 above applies and within one month after the date of its expiry shall, if the payment or deduction would have been a legal payment or deduction if the tax had not expired, be deemed to be a legal payment or deduction, subject to the condition that—

Payments and deductions made on account, and before renewal, of any temporary tax within s.1.

- (a) if a resolution for the renewal or reimposition of the tax is not passed by the House of Commons within that month, or such a resolution is passed within that month but ceases to have statutory effect under the said section 1, any money so paid or deducted shall be repaid or made good, and
- (b) if the tax is ultimately renewed or reimposed at a different rate, or with modifications, any amount paid or deducted which could not properly have been paid or deducted under the new conditions affecting the tax shall be repaid or made good.

(2) In this section “temporary tax” means a tax which has been imposed, or renewed or reimposed, for a limited period not exceeding eighteen months, and was in force or imposed during the previous financial year.

3.—(1) The following provisions of this section shall have effect where the House of Commons passes a resolution providing for the imposition as from a specified date of any duty of customs or excise, not being a resolution to which statutory effect can be given under section 1 of this Act.

Customs and excise: provisions for securing duties under resolutions not having statutory effect.

(2) If the duty so imposed is a duty of customs, the Commissioners may require any person who, on or after the specified date, imports or clears from warehouse any goods to which the resolution applies to give security that he will, if and when an Act giving effect to the resolution comes into operation, pay the duty chargeable in respect of the goods under that Act.

(3) If the duty is a duty of excise, the Commissioners may make regulations for the purpose of securing the payment of such duty as may by law become chargeable in the event of an Act giving effect to the resolution coming into operation, and may by those regulations apply to the duty and to any trade or business in connection with which the duty may become chargeable and to any person carrying on, or premises used for the purpose of, that trade or business any provision of the excise Acts.

(4) If any person contravenes or fails to comply with regulations made under this section, he shall be liable to a penalty of £50, and any goods in respect of which the offence was committed shall be liable to forfeiture.

1952 c. 44. (5) This and the next following section shall be construed as one with the Customs and Excise Act 1952.

Customs and excise: alteration of rate of drawback where rate of duty altered by resolution having statutory effect.

4. Where the rate of any duty of customs or excise is altered by any resolution of the House of Commons having statutory effect, and any Bill which has been introduced into the House to give effect to that resolution provides for an alteration of the rate of drawback to be allowed in respect of that duty, then, so long as the resolution continues to have statutory effect, drawback shall be allowed in accordance with the rate provided in the Bill, subject to any necessary adjustment in case the rate of drawback as enacted by Parliament differs from the rate provided in the Bill.

House of Commons resolution giving provisional effect to motions affecting taxation.

5.—(1) This section shall apply if the House of Commons resolves that provisional statutory effect shall be given to one or more motions to be moved by the Chancellor of the Exchequer, or some other Minister, and which, if agreed to by the House, would be resolutions—

- (a) to which statutory effect could be given under section 1 of this Act, or
- (b) to which section 3 of this Act could be applied, or
- (c) in accordance with which assessments to corporation tax could be made by virtue of section 49(6) of the Finance Act 1965.

1965 c. 25.

(2) Subject to subsection (3) below, on the passing of the resolution under subsection (1) above, sections 1 to 3 of this Act, the said section 49(6) and section 492 of the Income Tax Act 1952 (over deductions from preference dividends before passing of annual Act) shall apply as if each motion to which the resolution applies had then been agreed to by a resolution of the House.

1952 c. 10.

(3) Subsection (2) above shall cease to apply to a motion if that motion, or a motion containing the same proposals with modifications, is not agreed to by a resolution of the House (in this section referred to as "a confirmatory resolution") within the next ten days on which the House sits after the resolution under subsection (1) above is passed, and, if it ceases to apply, all such adjustments, whether by way of discharge or repayment of tax, or discharge of security, or otherwise, shall be made as may be necessary to restore the position to

what it would have been if subsection (2) above had never applied to that motion, and to make good any deductions which have become unauthorised deductions.

(4) The enactments specified in subsection (2) above shall have effect as if—

- (a) any confirmatory resolution passed within the said period of ten sitting days had been passed when the resolution under subsection (1) above was passed, and
- (b) everything done in pursuance of the said subsection (2) by reference to the motion to which the confirmatory resolution relates had been done by reference to the confirmatory resolution,

but any necessary adjustments shall be made, whether by way of discharge or repayment of tax, or modification of the terms of any security, or further assessment, or otherwise, where the proposals in the confirmatory resolution are not the same as those in the original motion to which that resolution relates.

6.—(1) This Act may be cited as the Provisional Collection of Taxes Act 1968. Short title, repeals and saving as respects Northern Ireland.

(2) The enactments specified in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule. Northern Ireland.

(3) Nothing in this Act applies to, or affects the Provisional Collection of Taxes Act 1913 in its application to, the House of Commons of the Parliament of Northern Ireland. 1913 c. 3.

Section 6.

SCHEDULE**REPEALS**

| Chapter | Short Title | Extent of Repeal |
|---|--|---|
| 3 & 4 Geo. 5. c. 3. | The Provisional Collection of Taxes Act 1913. | The whole Act. |
| 15 & 16 Geo. 6. & 1 Eliz. 2. c. 44. | The Customs and Excise Act 1952. | Sections 265 and 269. |
| 5 & 6 Eliz. 2. c. 49. | The Finance Act 1957. | Section 9. |
| 1967 c. 54. | The Finance Act 1967. | Sections 41, except sub- section (5), and 42. In Schedule 16, Part IX. |



Capital Allowances Act 1968

1968 CHAPTER 3

An Act to consolidate Parts X and XI of the Income Tax Act 1952 with related provisions in that Act and subsequent Acts, but without the provisions of the said Part X relating to patents or to agricultural estate management expenditure which is not capital expenditure.

[1st February 1968]

BE IT ENACTED by the Queen'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

THE MAIN RELIEFS FOR CAPITAL EXPENDITURE

CHAPTER I

INDUSTRIAL BUILDINGS AND STRUCTURES, ETC.

1.—(1) Subject to the provisions of this Act, where a person incurs capital expenditure on the construction of a building or structure which is to be an industrial building or structure occupied for the purposes of a trade carried on either by that person or by such a lessee as is mentioned in subsection (3) of this section, there shall be made to the person who incurred the expenditure, for the chargeable period mentioned in subsection (4) below, an allowance (in this Chapter referred to as “an initial allowance”).

(2) An initial allowance shall be of an amount equal to three-twentieths of the capital expenditure mentioned in subsection (1) above:

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Provided that this subsection shall have effect subject to the provisions of Schedule 1 to this Act.

(3) The lessees mentioned in subsection (1) above are lessees occupying the building or structure on the construction of which the expenditure was incurred under a lease to which the relevant interest, as defined in section 11 of this Act, is reversionary.

(4) The chargeable period mentioned in subsection (1) above shall, in the case of a person incurring expenditure, be the chargeable period related to the incurring of that expenditure:

Provided that where the first use to which the building or structure is put is a use by a person occupying it by virtue of a tenancy to which the relevant interest is reversionary, and the tenancy begins after the incurring of the expenditure, the said chargeable period shall be the chargeable period in which the tenancy begins.

(5) Notwithstanding anything in this section, no initial allowance shall be made in respect of any expenditure if, when the building or structure comes to be used, it is not an industrial building or structure, and where an initial allowance has been granted in respect of any expenditure otherwise than in accordance with the provisions of this section, all such assessments shall be made as are necessary to secure that effect is given to those provisions.

(6) Any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of the preceding provisions of this section as if it had been incurred by that person on the first day on which he does carry it on.

Writing-down allowances.

2.—(1) Subject to the provisions of this Act, where—

- (a) any person is, at the end of a chargeable period or its basis period, entitled to an interest in a building or structure, and
- (b) at the end of the said chargeable period or its basis period, the building or structure is an industrial building or structure, and
- (c) that interest is the relevant interest in relation to the capital expenditure incurred on the construction of that building or structure,

an allowance (in this Chapter referred to as “a writing-down allowance”) shall be made to him for the said chargeable period.

(2) The writing-down allowance shall be equal to one-twenty-fifth (or, where the expenditure was incurred before 6th November 1962, one-fiftieth) of the expenditure mentioned in subsection

(1)(c) above, except that for a chargeable period of less than a year the said fraction of one-twentyfifth or one-fiftieth shall be proportionately reduced.

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(3) Where the interest in a building or structure which is the relevant interest in relation to any expenditure is sold while the building or structure is an industrial building or structure, then (subject to any further adjustment under this subsection on a later sale) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time of the sale, shall be the residue (as defined in section 4(1) of this Act) of that expenditure immediately after the sale, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired at the date of the sale of the period of twenty-five years (or, where the expenditure was incurred before 6th November 1962, fifty years) beginning with the time when the building or structure was first used.

(4) Notwithstanding anything in the preceding provisions of this section, in no case shall the amount of a writing-down allowance made to a person for any chargeable period in respect of any expenditure exceed what, apart from the writing off falling to be made by reason of the making of that allowance, would be the residue of that expenditure at the end of that chargeable period or its basis period.

3.—(1) Where any capital expenditure has been incurred on the construction of a building or structure, and any of the following events occurs while the building or structure is an industrial building or structure, that is to say—

Balancing allowances and balancing charges.

- (a) the relevant interest in the building or structure is sold, or
- (b) that interest, being an interest depending on the duration of a foreign concession, comes to an end on the coming to an end of that concession, or
- (c) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon, or
- (d) the building or structure is demolished or destroyed, or, without being demolished or destroyed, ceases altogether to be used,

an allowance or charge (in this Chapter referred to as “a balancing allowance” or “a balancing charge”) shall, in the circumstances mentioned in this section, be made to, or, as the case may be, on, the person entitled to the relevant interest immediately before that event occurs, for the chargeable period related to that event:

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Provided that no balancing allowance or balancing charge shall be made by reason of any event occurring more than twenty-five years (or, where the expenditure was incurred before 6th November 1962, fifty years) after the building or structure was first used.

(2) Where there are no sale, insurance, salvage or compensation moneys, or where the residue of the expenditure immediately before the event exceeds those moneys, a balancing allowance shall be made, and the amount thereof shall be the amount of the said residue or, as the case may be, of the excess thereof over the said moneys.

(3) If the sale, insurance, salvage or compensation moneys exceed the residue, if any, of the expenditure immediately before the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess, or, where the residue is nil, to the said moneys.

(4) Where a balancing charge falls to be made on a person, and any part of the relevant period (as defined for the purposes of this subsection) is not comprised in a chargeable period for which a writing-down allowance or scientific research allowance has been made to him or its basis period, the amount on which the balancing charge is to be made shall be reduced in the proportion which the part or parts that are so comprised bear to the whole of the relevant period.

In this subsection "the relevant period" means the period beginning when the building or structure was first used for any purpose and ending—

- (a) if the event giving rise to the balancing charge occurs on the last day of a chargeable period or its basis period, with that day, or
- (b) if not, with the latest date before that event which is the last day of a chargeable period or its basis period:

Provided that where, before the said event (but not before the appointed day), the building or structure has been sold while an industrial building or structure, the relevant period shall begin with the day following that sale or, if there has been more than one such sale, the last such sale.

(5) Where any person by notice in writing to the inspector so elects in relation to any such event as is mentioned in subsection (1) of this section, being an event which gives rise to a balancing allowance, he shall, in relation to that event, be treated for all the purposes of this Act—

- (a) as if subsection (4) of this section applied to that balancing allowance, and

(b) as if, for the purposes of the application thereof—

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(i) the reference to the amount on which the balancing charge is to be made were a reference to the amount of the balancing allowance, and

(ii) the references to the event which gives rise to the balancing charge were references to the event which gives rise to the balancing allowance.

(6) Notwithstanding anything in the preceding provisions of this section, in no case shall the amount on which a balancing charge is made on a person in respect of any expenditure on the construction of a building or structure exceed the amount of the initial allowance, if any, made to him in respect of that expenditure together with the amount of any writing-down allowances or scientific research allowances in respect of that expenditure, and any relevant mills, factories or exceptional depreciation allowances in respect of that building or structure, made to him for chargeable periods which end on or before the date of the event giving rise to the charge or of which the basis periods end on or before that date.

4.—(1) Any expenditure incurred on the construction of any building or structure shall be treated for the purposes of this Chapter as written off to the extent and as at the times hereafter specified in this section, and references in this Chapter to the residue of any such expenditure shall be construed accordingly.

Writing off of expenditure and meaning of "residue of expenditure".

(2) Where an initial allowance is made in respect of the expenditure, the amount of that allowance shall be treated as written off as at the time when the building or structure is first used.

(3) Where, by reason of the building or structure being at any time an industrial building or structure, a writing-down allowance is made for any chargeable period in respect of the expenditure, the amount of that allowance shall be treated as written off as at the said time:

Provided that, where at the said time an event occurs which gives rise or may give rise to a balancing allowance or balancing charge, the amount directed to be treated as written off by this subsection as at the said time shall be taken into account in computing the residue of that expenditure immediately before that event for the purpose of determining whether any and if so what balancing allowance or balancing charge is to be made.

(4) Where a scientific research allowance is made for any chargeable period in respect of the expenditure, the amount of that allowance shall be treated as written off—

(a) in the case of an allowance under section 91 of this Act or paragraph 1 of Schedule 10 to this Act, as at

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the end of the chargeable period or, if it is a year of assessment, as at the end of the basis period (as defined in subsection (3) of the said section 91) for that year of assessment, and

- (b) in the case of an allowance under section 92 of this Act or paragraph 2 of Schedule 10 to this Act, as at the time when the asset ceases to be used by the person in question for scientific research connected with the trade:

Provided that where, at the time as at which an amount falls to be treated as written off under this subsection, an event occurs which gives rise or may give rise to a balancing allowance or balancing charge, the amount directed to be treated as written off by this subsection as at that time shall be taken into account in computing the residue of the expenditure immediately before that event for the purpose of determining whether any and if so what balancing allowance or balancing charge is to be made.

(5) If, for any period or periods between the time when the building or structure was first used for any purpose and the time at which the residue of the expenditure falls to be ascertained, the building or structure has not been in use as an industrial building or structure, then, subject to the provisions of subsection (7) below, there shall in ascertaining that residue be treated as having been previously written off in respect of the said period or periods amounts equal to writing-down allowances made for chargeable periods of a total length equal thereto at such rate or rates as would have been appropriate having regard to any sale on which section 2(3) of this Act operated.

(6) For the purposes of subsection (5) above a building or structure shall not be treated—

- (a) by virtue of section 7(1)(c) of this Act as having been an industrial building or structure before the year 1952-53,
- (b) by virtue of section 7(1)(i) or section 7(6) of this Act as having been an industrial building or structure before the year 1953-54.

(7) Where any relevant mills, factories or exceptional depreciation allowances have been made in respect of the building or structure for any year of assessment before that in which the appointed day fell, and either—

- (a) no amount falls to be treated as written off under subsection (5) above as at any date before the beginning of the year of assessment in which the appointed day fell, or

- (b) the total amounts falling to be treated as written off thereunder as at dates before the beginning of the year of assessment in which the appointed day fell are less than the total relevant mills, factories or exceptional depreciation allowances for years of assessment before that year,

an amount equal to the total relevant mills, factories or exceptional depreciation allowances or, as the case may be, to that total amount less the total amounts falling to be treated as written off as aforesaid, shall be treated as written off as at the end of the year of assessment immediately preceding that in which the appointed day fell.

(8) Where any exceptional depreciation allowance was made in respect of a building or structure for the year of assessment in which the appointed day fell, an amount equal to that allowance shall be treated as written off as at the end of the immediately preceding year of assessment.

(9) Where, on the occasion of a sale, a balancing allowance is made in respect of the expenditure, there shall be treated as written off as at the time of the sale the amount by which the residue of the expenditure before the sale exceeds the net proceeds of the sale.

(10) Where, on the occasion of a sale, a balancing charge is made in respect of the expenditure, the residue of the expenditure shall be deemed for the purposes of this Chapter to be increased as at the time of the sale by the amount on which the charge is made.

(11) Where a building or structure is demolished, and the demolition gives rise, or might give rise, to a balancing allowance or charge under this Chapter to or on the person incurring the cost of demolition, the net cost to him of the demolition (that is to say the excess, if any, of the cost of the demolition over any moneys received for the remains of the property) shall be added for the purposes of this Chapter to the residue, immediately before the demolition, of the expenditure incurred on the construction of the property; and if this subsection applies to the net cost to a person of the demolition of any property, the cost or net cost shall not be treated, for the purposes of this Part or Part II of this Act, as expenditure incurred in respect of any other property by which that property is replaced.

(12) Where the Crown is at any time entitled to the relevant interest in a building or structure, the preceding provisions of this section shall have effect as if all such writing-down allowances, balancing allowances, mills, factories or exceptional

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depreciation allowances and balancing charges had been made as could have been made if—

- (a) a person other than the Crown and other than a company had been entitled to the relevant interest, and
- (b) all things which, while the Crown is entitled to the relevant interest, have been done in relation to the building or structure by or to the Crown or by or to any person using the building or structure under the authority of the Crown, had been done by or to that other person, for the purposes of and in the course of a trade carried on by him, and
- (c) any sale or other disposition by or on behalf of the Crown of the relevant interest in the building or structure had been made in connection with the termination of that trade, and
- (d) the basis periods of that other person in respect of that trade had, in the case of each year of assessment, ended immediately before the beginning of the year of assessment.

Buildings and
structures
bought unused.

5.—(1) Where expenditure is incurred on the construction of a building or structure and, before that building or structure is used, the relevant interest therein is sold—

- (a) the expenditure actually incurred on the construction thereof shall be left out of account for the purposes of the preceding provisions of this Chapter, but
- (b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction thereof equal to the said expenditure or to the net price paid by him for the said interest, whichever is the less:

Provided that, where the relevant interest in the building or structure is sold more than once before the building or structure is used, the provisions of paragraph (b) of this subsection shall have effect only in relation to the last of those sales.

(2) Where the expenditure incurred on the construction of a building or structure was incurred by a person carrying on a trade which consists, as to the whole or any part thereof, in the construction of buildings or structures with a view to their sale, and, before the building or structure is used, he sells the relevant interest therein in the course of that trade, or, as the case may be, of that part of that trade, paragraph (b) of subsection (1) of this section shall have effect subject to the following modifications—

- (a) if that sale is the only sale of the relevant interest before the building or structure is used, the said paragraph

(b) shall have effect as if the words "the said expenditure or to" and the words "whichever is the less" were omitted, and

(b) in any other case, the said paragraph (b) shall have effect as if the reference to the expenditure actually incurred on the construction of the building or structure were a reference to the price paid on the said sale.

6.—(1) Except in the cases mentioned in the following provisions of this section, any allowance or charge made to or on a person under the preceding provisions of this Chapter shall be made to or on him in taxing his trade. Manner of making allowances and charges.

(2) An initial allowance shall be made to a person by way of discharge or repayment of tax if his interest in the building or structure is subject to any lease when the expenditure is incurred or becomes subject to any lease before the building or structure is first used for any purpose.

(3) A writing-down allowance shall be made to a person for a chargeable period by way of discharge or repayment of tax if his interest is subject to any lease at the end of that chargeable period or its basis period.

(4) A balancing allowance shall be made to a person by way of discharge or repayment of tax if his interest is subject to any lease immediately before the event giving rise to the allowance.

(5) Any allowance which, under the preceding provisions of this section, is to be made by way of discharge or repayment of tax shall be available primarily against the following income, that is to say—

(a) income taxed under Case VIII of Schedule D in respect of any premises which at any time in the chargeable period consist of or include an industrial building or structure, or

(b) income which is the subject of a balancing charge under this Chapter.

(6) Effect shall be given to a balancing charge to be made on a person where his interest is subject to any lease immediately before the event giving rise to the charge—

(a) if it is a charge to income tax, by making the charge under Case VI of Schedule D,

(b) if it is a charge to corporation tax, by treating the amount on which the charge is to be made as income of the description in subsection (5)(a) above.

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CHAPTER I
Definition
of " industrial
building or
structure ".

7.—(1) Subject to the provisions of this section, in this Chapter " industrial building or structure " means a building or structure in use—

- (a) for the purposes of a trade carried on in a mill, factory or other similar premises, or**
- (b) for the purposes of a transport, dock, inland navigation, water, electricity or hydraulic power undertaking, or**
- (c) subject to subsection (7) below, for the purposes of a tunnel undertaking, or**
- (d) subject to subsection (8) below, for the purposes of a bridge undertaking, or**
- (e) for the purposes of a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process, or**
- (f) for the purposes of a trade which consists in the storage—**
 - (i) of goods or materials which are to be used in the manufacture of other goods or materials, or**
 - (ii) of goods or materials which are to be subjected, in the course of a trade, to any process, or**
 - (iii) of goods or materials which, having been manufactured or produced or subjected, in the course of a trade, to any process, have not yet been delivered to any purchaser, or**
 - (iv) of goods or materials on their arrival by sea or air into any part of the United Kingdom, or**
- (g) for the purposes of a trade which consists in the working of any mine, oil well or other source of mineral deposits, or of a foreign plantation, or**
- (h) for the purposes of a trade consisting in all or any of the following activities, that is to say, ploughing or cultivating land (other than land in the occupation of the person carrying on the trade) or doing any other agricultural operation on such land, or threshing the crops of another person, or**
- (i) for the purposes of a trade which consists in the catching or taking of fish or shellfish,**

and, in particular, the said expression includes any building or structure provided by the person carrying on such a trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose.

(2) The provisions of subsection (1) of this section shall apply in relation to a part of a trade or undertaking as they apply in relation to a trade or undertaking :

Provided that where part only of a trade or undertaking complies with the conditions set out in the said provisions, a building or structure shall not, by virtue of this subsection, be an industrial building or structure unless it is in use for the purposes of that part of that trade or undertaking.

(3) Notwithstanding anything in subsection (1) or subsection (2) of this section, but subject to the provisions of subsection (4) of this section, "industrial building or structure" does not include any building or structure in use as, or as part of, a dwelling-house, retail shop, showroom, hotel or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, showroom, hotel or office:

Provided that this subsection shall not apply to, or to part of, a building or structure which was constructed for occupation by, or for the welfare of, persons employed at, or in connection with the working of, a mine, oil well or other source of mineral deposits, or for occupation by, or for the welfare of, persons employed on, or in connection with the growing and harvesting of the crops on, a foreign plantation, if the building or structure is likely to have little or no value to the person carrying on the trade when the mine, oil well or other source or the plantation is no longer worked, or will cease to belong to such person on the coming to an end of a foreign concession under which the mine, oil well or other source, or the plantation, is worked.

(4) Where part of the whole of a building or structure is, and part thereof is not, an industrial building or structure, and the capital expenditure which has been incurred on the construction of the second mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the whole building or structure, the whole building or structure and every part thereof shall be treated as an industrial building or structure.

(5) In this section—

"retail shop" includes any premises of a similar character where retail trade or business (including repair work) is carried on;

"dock" includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and "dock undertaking" shall be construed accordingly;

"water undertaking" means an undertaking for the supply of water for public consumption;

"electricity undertaking" means an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy;

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CHAPTER I

“hydraulic power undertaking” means an undertaking for the supply of hydraulic power ;

“undertaking” does not include an undertaking not carried on by way of trade ;

“foreign plantation” means, subject to subsection (6) below, any land outside the United Kingdom used for the growing and harvesting of crops ;

“crops” includes any form of vegetable produce and “harvesting” includes the collection thereof, however effected.

(6) In this section the expression “foreign plantation” shall (without prejudice to the generality of the definition in subsection (5) above) be extended so as to include any land outside the United Kingdom used for husbandry or forestry, and the reference in subsection (3) above to the growing and harvesting of crops shall be correspondingly extended.

1952 c. 33.

(7) Subsection (1)(c) above shall not affect any allowance or charge which would have been made under this Part of this Act if this Act had been enacted without that paragraph and if section 25 of the Finance Act 1952 (which is the corresponding provision repealed by this Act) had not been passed, and where by virtue of the said paragraph (c) a balancing charge is made on a person in respect of any expenditure, the amount on which it is made shall not exceed the amount of the allowances made to him in respect of that expenditure by virtue of the said paragraph (c) (and the said section 25).

(8) Subsection (1)(d) above shall have effect only in relation to expenditure which is to be treated for the purposes of this Chapter as incurred after the end of the year 1956-57.

(9) For the purposes of this Chapter references to use as an industrial building or structure do not apply, in the case of a building or structure outside the United Kingdom, to use for the purposes of a trade at a time when the profits or gains of the trade are not assessable in accordance with the rules applicable to Case I of Schedule D.

Expenditure
on repair of
buildings.

8. This Chapter shall have effect in relation to capital expenditure incurred by a person on repairs to any part of a building or structure as if it were capital expenditure incurred by him in the construction for the first time of that part of the building or structure, and for the purposes of this section any expenditure incurred for the purposes of a trade on repairs to a building or structure shall be deemed to be capital expenditure if it is not expenditure which would be allowed to be deducted in computing, for the purposes of tax, the profits or gains of the trade.

9. Where capital expenditure is or has been incurred on preparing, cutting, tunnelling or levelling land for the purposes of preparing the land as a site for the installation of machinery or plant, and apart from this section no allowance could be made in respect of that expenditure under this Chapter, or under Chapter II of this Part of this Act, then as regards that expenditure—

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Expenditure
on sites for
machinery
and plant.

(a) the machinery or plant shall be treated for the purposes of this Chapter as a building or structure (whether or not it would be so treated apart from this section), and

(b) section 14(1) of this Act shall apply with the omission of the reference to Chapter II of this Part of this Act.

10. Where a building or structure which is not an industrial building or structure as defined in section 7 above is occupied by the person carrying on a trade and used as a sports pavilion for the welfare of all or any of the workers employed in that trade, this Chapter shall apply in relation to that building or structure as if it were an industrial building or structure.

Sports
pavilions.

11.—(1) Subject to the provisions of this section, in this Chapter, “the relevant interest” means, in relation to any expenditure incurred on the construction of a building or structure, the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it.

Meaning of
“the relevant
interest”.

(2) Where, when he incurs expenditure on the construction of a building or structure, a person is entitled to two or more interests in the building or structure, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Chapter.

(3) An interest shall not cease to be the relevant interest for the purposes of this Chapter by reason of the creation of any lease or other interest to which that interest is subject, and where the relevant interest is a leasehold interest and is extinguished by reason of the surrender thereof or on the person entitled thereto acquiring the interest which is reversionary thereon, the interest into which that leasehold interest merges shall thereupon become the relevant interest.

(4) Where the relevant interest is a leasehold interest which came to an end before the appointed day, and subsection (3) of this section does not apply, the interest which is immediately reversionary thereon shall be deemed, for the purposes of the provisions of this Chapter in so far as they relate to writing-down allowances, balancing allowances and balancing charges, to have thereupon become the relevant interest.

PART I
CHAPTER I
Temporary disuse of industrial buildings or structures.

12.—(1) For the purposes of this Chapter, a building or structure shall not be deemed to cease altogether to be used by reason that it falls temporarily out of use, and where, immediately before any period of temporary disuse, a building or structure is an industrial building or structure, it shall be deemed to continue to be an industrial building or structure during the period of temporary disuse.

(2) Where by reason of the provisions of subsection (1) of this section a building or structure is deemed to continue to be an industrial building or structure while temporarily out of use, then if—

- (a)** upon the last occasion upon which the building or structure was in use as an industrial building or structure, it was in use for the purposes of a trade which has since been permanently discontinued, or
- (b)** upon the last occasion upon which the building or structure was in use as an industrial building or structure, the relevant interest therein was subject to a lease which has since come to an end,

any writing-down allowance or balancing allowance falling to be made to any person in respect of the building or structure during any period for which the temporary disuse continues after the discontinuance of the trade or the coming to an end of the lease shall be made by way of discharge or repayment of tax, and shall be available primarily against income of the descriptions in paragraphs (a) and (b) of section 6(5) of this Act, and effect shall be given to any balancing charge falling to be made on any person in respect of the building or structure during the period—

- (i)** if it is a charge to income tax, by making the charge under Case VI of Schedule D,
- (ii)** if it is a charge to corporation tax, by treating the amount on which the charge is to be made as income of the description in paragraph (a) of section 6(5) of this Act.

(3) The reference in this section to the permanent discontinuance of a trade does not include a reference to the happening of any event which, by virtue of section 19 of the Finance Act 1953 (changes in persons carrying on a trade), or of any provision of Part IV of the Finance Act 1965 other than paragraph 7 of Schedule 16 to that Act (overseas trade corporations), is to be treated as equivalent to the discontinuance of the trade.

(4) Subsection (1) above shall not apply by reason of a building or structure falling temporarily out of use before the appointed day, and shall not apply to a period of temporary disuse beginning before the appointed day.

1953 c. 34.

1965 c. 25.

13.—(1) The provisions of this Chapter shall have effect in relation to any period of requisition of any land as if the Crown had been in possession of that land for that period by virtue of a lease, and any reference in this Chapter to the surrender of a lease or the extinguishment thereof on the person entitled thereto acquiring the interest which is reversionary thereon, or to the merger of a leasehold interest, shall be construed accordingly, and any sum paid to the Crown in respect of any building or structure constructed on any land during any period of requisition of that land, being a sum paid, whether by virtue of any enactment or otherwise, by the person who, subject to the rights of the Crown, is entitled to possession of the land, shall be deemed for the purposes of this Chapter to be a sum paid in consideration of the surrender of that lease:

PART I
CHAPTER I
Requisitioned
land, holding
over of leased
land, and other
special cases.

Provided that where a person carrying on a trade is authorised by the Crown to occupy the land or any part thereof for the whole or any part of the period of requisition, the provisions of this Chapter shall have effect as if the Crown had granted a sub-lease to that person of that land or, as the case may be, that part thereof, for the period of requisition or, as the case may be, for that part of the period for which the said person occupies the land, and the preceding provisions of this subsection shall have effect in relation to that sub-lease as they have effect in relation to the lease therein mentioned, subject, however, to the modification that for the reference to any sum paid to the Crown there shall be substituted a reference to any sum paid to the said person.

In this subsection, "period of requisition" means a period in respect of which compensation is, or, but for any agreement to the contrary, would be, payable under section 2(1)(a) of the Compensation (Defence) Act 1939 by reference to the rent which might reasonably be expected to be payable under a lease granted immediately before the beginning of that period. 1939 c. 75.

(2) Where, with the consent of the lessor, a lessee of any building or structure remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Chapter to continue so long as he remains in possession as aforesaid.

(3) Where, on the termination of a lease, a new lease is granted to the lessee in pursuance of an option available to him under the terms of the first lease, the provisions of this Chapter shall have effect as if the second lease were a continuation of the first lease.

(4) Where, on the termination of a lease, the lessor pays any sum to the lessee in respect of a building or structure comprised in the lease, the provisions of this Chapter shall have effect as if the lease had come to an end by reason of the surrender thereof in consideration of the payment.

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CHAPTER I

(5) Where, on the termination of a lease, another lease is granted to a different lessee and, in connection with the transaction, that lessee pays a sum to the person who was the lessee under the first lease, the provisions of this Chapter shall have effect as if both leases were the same lease and there had been an assignment thereof by the lessee under the first lease to the lessee under the second lease in consideration of the payment.

Exclusion
of double
allowances,
etc.

14.—(1) No allowance shall be made under or by virtue of any of the provisions of this Chapter in respect of, or of premises including, or of expenditure on, a building or structure if, for the same or any other chargeable period, an allowance is or can be made under any of the provisions of Chapter II, Chapter III or Chapter V of this Part of this Act in respect of, or of expenditure on, that building or structure.

(2) Without prejudice to the provisions of subsection (1) of this section, any reference in this Chapter to the incurring of expenditure on the construction of a building or structure does not include expenditure on the provision of machinery or plant or on any asset which has been treated for any chargeable period as machinery or plant.

Mining
structures,
etc.:
balancing
allowances
carried back
to earlier
chargeable
periods.

15.—(1) If, in the case of a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits—

- (a) a balancing allowance falls to be made under this Chapter for the last chargeable period during which the trade is carried on, and
- (b) the event giving rise to the allowance is the mine, oil well or other source ceasing to be worked or the coming to an end of a foreign concession, and
- (c) the allowance is in respect of expenditure on a building or structure which was constructed for occupation by, or for the welfare of, persons employed at, or in connection with the working of, the mine, oil well or other source, and
- (d) full effect cannot be given to the allowance because of an insufficiency of profits or gains for the said chargeable period,

the person entitled to the allowance may claim that the balance of the allowance shall be given for the last preceding chargeable period, and so on for other preceding chargeable periods, so, however, that allowances shall not be given by virtue of this subsection for periods together amounting to more than five years (inclusive of any period for which an allowance might be made but cannot be given effect for want of profits or gains)

otherwise than by giving a proportionately reduced allowance for a chargeable period of which part is required to make up the five years.

(2) Allowances may be made by virtue of this section to a company for the income tax year 1964-65 or 1965-66, notwithstanding that allowances are also made for accounting periods of the company falling wholly or partly within those years and, in reckoning the period for which allowances are to be made, the periods for which allowances are so made shall be added together, notwithstanding that the same time is (according to the calendar) counted twice.

(3) In the case of a company no allowance shall be given by virtue of this section so as to create or augment a loss in any accounting period; and where on a company ceasing to carry on a trade a claim is made both under this section and under section 59 of the Finance Act 1965 (relief for terminal loss) the allowance for which the claim is made under this section shall be disregarded for the purposes of the claim under the said section 59, but effect shall be given to the claim under the said section 59 in priority to the claim under this section. 1965 c. 25.

16.—(1) Subject to the provisions of this section, “the appointed day” in this Chapter means 6th April 1946. Transitory provision: meaning of “appointed day”.

(2) Where by virtue of section 7(2) of the Income Tax Act 1945 (which was re-enacted in Part I of Schedule 11 to the Income Tax Act 1952) an allowance fell to be made under section 15 of the Finance Act 1937 (allowances for depreciation of mills, factories and other similar premises) for the year 1946-47 or any subsequent year of assessment in the case of any trade, the provisions of this Chapter, other than this section, shall have effect in relation to the premises in question as if the appointed day were postponed until the first day of the first year of assessment for which no allowance fell to be made under the said section 15 in the case of that or any other trade. 1945 c. 32.
1952 c. 10.
1937 c. 54.

(3) Subsection (4) below has effect as respects expenditure—

- (a) incurred on a building or structure if used before 6th April 1956, not being premises in relation to which the appointed day is postponed to the said 6th April or a later day by subsection (2) above, and
- (b) consisting in part of expenditure incurred on preparing, cutting, tunnelling or levelling any land.

The reference above to expenditure incurred on preparing, cutting, tunnelling or levelling any land does not include expenditure on work done on the land to be covered by a building or structure for the purposes of preparing the land to receive the foundations of the building or structure, being work which

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may be expected to be valueless when the building or structure is demolished and not being work which consists of cutting or tunnelling.

(4) The provisions of this Part of this Act relating to allowances and charges under this Chapter, other than initial allowances, shall apply to the said part of the expenditure separately from the remainder, and to the remainder separately from that part, as if each had been incurred on a different building or structure from the other, and the necessary apportionments shall be made accordingly of any sale, insurance, salvage or compensation moneys or other relevant sums; and in relation to that part of the expenditure, but not in relation to the remainder, the appointed day for the purposes of any reference thereto in this Chapter shall be 6th April 1956.

(5) As regards expenditure to which this Chapter is applied by section 9 of this Act the appointed day, for the purpose of any reference thereto in this Chapter, shall be 6th April 1956.

**Interpretation
of Chapter I.**

17.—(1) References in this Chapter to expenditure incurred on the construction of a building or structure do not include any expenditure incurred on the acquisition of, or of rights in or over, any land.

(2) A person who has incurred expenditure on the construction of a building or structure shall be deemed, for the purposes of any provision of this Chapter referring to his interest therein at the time when the expenditure was incurred, to have had the same interest therein as he would have had if the construction thereof had been completed at that time.

(3) Without prejudice to any of the other provisions of this Part of this Act relating to the apportionment of sale, insurance, salvage or compensation moneys, the sum paid on the sale of the relevant interest in a building or structure, or any other sale, insurance, salvage or compensation moneys payable in respect of any building or structure, shall, for the purposes of this Chapter, be deemed to be reduced by an amount equal to so much thereof as, on a just apportionment, is attributable to assets representing expenditure other than expenditure in respect of which an allowance can be made under this Chapter.

CHAPTER II

MACHINERY AND PLANT

**Initial
allowances.**

18.—(1) Subject to the provisions of this Act, where—

- (a) a person carrying on a trade incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and

- (b) in consequence of his incurring the expenditure the machinery or plant belongs to him at some time during the chargeable period related to the incurring of the expenditure,

there shall be made to him, for the chargeable period related to the incurring of the expenditure, an allowance (in this Chapter referred to as "an initial allowance").

(2) The initial allowance shall be of an amount equal to three-tenths of the expenditure within subsection (1) above:

Provided that this subsection shall have effect subject to the provisions of Schedule 1 to this Act.

(3) No initial allowance shall be made in respect of any expenditure incurred after 6th April 1965 on the provision of road vehicles unless they are of a type not commonly used as private vehicles and unsuitable to be so used or are provided wholly or mainly for hire to, or for the carriage of, members of the public in the ordinary course of a trade, so however that the preceding provisions of this subsection—

(a) shall not affect initial allowances in respect of any expenditure in so far as it consists (and is stated in the claim for the allowance to consist) of sums payable under a contract entered into on a date (to be specified in the claim) not later than 6th April 1965, and

(b) shall not apply, as respects expenditure incurred on the provision of vehicles after 16th January 1966, to vehicles of a construction primarily suited for the conveyance of goods or burden of any description,

and, where an initial allowance is not excluded by this subsection, subsections (1) and (2) above shall have effect as respects road vehicles subject to Schedule 2 to this Act.

(4) Any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of subsection (1) of this section (and accordingly, subject to the proviso below, also for the purposes of subsection (3) above) as if it had been incurred by that person on the first day on which he does carry it on:

Provided that expenditure shall not be treated for the purposes of paragraph (b) of subsection (3) above as having been incurred after 16th January 1966 by reason only of the provisions of this subsection.

(5) An initial allowance may be made to a person in respect of any machinery or plant in taxing a trade carried on by him notwithstanding that it appears that, during the period during which the machinery or plant will be used for the purposes of the trade, it will also be used for other purposes, but the allowance in any such case shall be so much only of the

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CHAPTER II

allowance that would be made if the machinery or plant were to be used only for the purposes of the trade as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent to which it appears that the machinery or plant is likely to be used for the said other purposes during that period.

(6) No initial allowance shall be made to a person in respect of any machinery or plant in taxing a trade if it appears that, during the period during which the machinery or plant will be used by him for the purposes of the trade, sums which are in respect of, or take account of, the wear and tear to that machinery or plant occasioned by its use for those purposes and do not fall to be taken into account as his income or in computing the profits or gains of any trade carried on by him are, or are to be, payable to him directly or indirectly by the Crown, or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the person carrying on the trade:

Provided that where the sums referred to in this subsection are in respect of, or take account of, part only of the wear and tear therein referred to—

- (a) the preceding provisions of this subsection shall not apply, but
- (b) the amount of the allowance shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case.

(7) Where a person incurs capital expenditure on the provision of machinery or plant under a contract providing that he shall or may become the owner of the machinery or plant on the performance of the contract, then—

- (a) subject to the following paragraph, the machinery or plant shall for the purposes of subsection (1)(b) above be treated as belonging to him at any time when he is entitled to the benefit of that contract, so far as it relates to the machinery or plant, but
- (b) if he ceases to be so entitled without becoming the owner of the machinery or plant, the provisions of Schedule 3 to this Act shall have effect in relation to the machinery or plant.

Writing-down allowances

Writing-down allowances.

19.—(1) Subject to the provisions of this Act, where the person carrying on a trade in any chargeable period has incurred capital expenditure on the provision of machinery or plant for the purposes of the trade, an allowance (in this Chapter referred to as “a writing-down allowance”) shall be made to him for that chargeable period on account of the wear

and tear of any of the machinery or plant which belongs to him and is in use for the purposes of the trade at the end of that chargeable period or its basis period.

(2) The following provisions of this Chapter shall apply for the purposes of corporation tax notwithstanding that any provision in section 20, 21 or 26 of this Act, or in Schedule 4 to this Act, is expressed to apply in relation to a year of assessment, and for those purposes the amount of any writing-down allowance shall be determined by applying the law in force for the year of assessment in which the accounting period ends, and references in the said provisions to "the year of assessment in question" shall be construed accordingly.

(3) Where under the provisions of this Chapter a writing-down allowance falls to be determined by reference to a fraction or percentage, specified numerically, of any expenditure or other sum, or by reference to a percentage determined or deemed to be determined for a year of assessment, then for a chargeable period of less than a year the fraction or percentage shall be proportionately reduced; and similarly with the amounts by reference to which writing-down allowances for certain vehicles are limited by section 32(1) of, and paragraph 6 of Schedule 2 to, this Act.

(4) In sections 20 to 24 below, and Schedule 4 to this Act, the expression "new machinery or plant" means machinery or plant being unused and not second-hand, and for the purposes of this Chapter machinery or plant which has at any time fallen within the description "new machinery or plant capital expenditure on the provision of which was incurred after 5th November 1962" shall continue to be treated as within that description notwithstanding any sale of it or other change of circumstances.

20.—(1) Subject to the provisions of this Chapter, the writing-down allowance in respect of any machinery or plant for any chargeable period shall be a percentage of the amount by which the capital expenditure of the person to whom the allowance is to be made in providing the machinery or plant exceeds the total amount of any initial allowance, writing-down allowances, relevant exceptional depreciation allowances and scientific research allowances made to him in respect of that machinery or plant for previous chargeable periods. Normal method of calculation.

(2) Subject to the provisions of this section, the said percentage is such percentage as may be determined by the Board to be appropriate to be applied for the purposes of this section in relation to machinery or plant of the class in question for the year of assessment in question, and in determining the said percentage in relation to machinery or plant of any class, the Board shall have regard to the anticipated normal working life of machinery or plant of that class.

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CHAPTER II

(3) So far as the class in question consists of new machinery or plant capital expenditure on the provision of which was incurred after 5th November 1962, the said percentage shall be—

- (a) where the said life is 18 years or more, 15 per cent.,
- (b) where that life is less than 18 but not less than 14 years, 20 per cent.,
- (c) where that life is less than 14 years, 25 per cent.

(4) So far as the class in question consists of other machinery or plant, the said percentage shall be five-fourths of the percentage (in this Chapter referred to as the “basic percentage”) determined in accordance with this subsection.

The Board shall select, as the basic percentage, the percentage which in their opinion may fairly be taken as that which, if applied year by year throughout the said life as a writing-down percentage applicable in the first year to the cost of such machinery or plant, in the second year to that cost as written down in the first year, in the third year to that cost as written down in the first and second years, and so on, would, at the end of that life, have caused that cost to be written down to one-tenth thereof.

1952 c. 10.

(5) If it is shown to the satisfaction of the Board that a percentage which, under section 281(4) of the Income Tax Act 1952 (percentages in use in 1948-49) was deemed to be a percentage determined by them in relation to machinery or plant of any class under the said section 281(2) for the year 1949-50 (whether or not also applying to later years), if applied as a basic percentage in the manner specified in subsection (4) above, would, at the end of the anticipated normal working life of the machinery or plant of that class (estimated as if during the year 1948-49), cause the cost to be written down to a fraction thereof which is smaller than one-tenth, subsection (4) above shall have effect in relation to machinery or plant of that class as if a reference to that smaller fraction were substituted therein for a reference to one-tenth.

(6) It shall not be necessary for the Board to redetermine a percentage under this or the next following section yearly, and any such determination for any year of assessment shall apply also to subsequent years except so far as it is superseded by any subsequent determination.

Schedule 4 to this Act shall have effect as respects the application to years of assessment to which this Act applies of determinations applying to the year 1967-68.

(7) In this section “the anticipated normal working life” means, in relation to machinery or plant of any class, the period which might be expected, when machinery or plant of that class is first put into use, to be going to elapse before it is finally put out of use as being unfit for further use, it being

assumed that it is going to be used in the normal manner and to the normal extent and is going to be so used throughout that period.

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21.—(1) Subject to the provisions of this Chapter, the writing-down allowance in respect of any machinery or plant for any chargeable period— Alternative method.

- (a) may, if the person to whom the allowance is to be made so elects when he makes his claim for the allowance, be computed by reference to the amount of his capital expenditure in providing the machinery or plant, and
- (b) shall in that event be the percentage of that amount specified in subsection (2) below.

(2) The said percentage is such percentage as may be determined by the Board in relation to machinery or plant of the class in question for the year of assessment in question by reference to the anticipated normal working life of machinery or plant of that class.

(3) So far as the class in question consists of new machinery or plant capital expenditure on the provision of which was incurred after 5th November 1962, the said percentage shall be—

- (a) where the said life is 18 years or more, $6\frac{1}{2}$ per cent.,
- (b) where that life is less than 18 but not less than 14 years, $8\frac{1}{2}$ per cent.,
- (c) where that life is less than 14 years, $11\frac{1}{2}$ per cent.

(4) So far as the class in question consists of other machinery or plant, the said percentage shall be five-fourths of the percentage (in this Chapter referred to as “the basic percentage”) determined in accordance with this subsection.

The basic percentage is such percentage as may be determined by the Board as being in their opinion equal to nine-tenths of the fraction of which the numerator is one and the denominator is the number of years in the said life.

(5) If it is shown to the satisfaction of the Board that a percentage which, under section 282(3) of the Income Tax Act 1952 (percentages in use in 1948-49), was deemed to be a percentage determined by them in relation to machinery or plant of any class under the said section 282(2) for the year 1949-50 (whether or not also applying to later years) bears to the fraction (with numerator one) specified in subsection (4) above (computed by reference to an anticipated normal working life estimated as if during the year 1948-49) a higher proportion than nine-tenths, subsection (4) above shall have effect in relation to machinery or plant of that class as if for the reference therein to nine-tenths there were substituted a reference to the said higher proportion. 1952 c. 10.

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(6) Machinery or plant may be treated for the purposes of this section as being of a different class from other machinery or plant where the one is new when it is acquired and the other is not new when it is acquired, or, in the case of machinery or plant which is not new when it is acquired, where different periods have elapsed between the date when the machinery or plant was made or first put into use and the date of the acquisition thereof.

(7) An election under this section shall not be effective for any chargeable period in relation to any machinery or plant unless the Board are satisfied that the person making the election is keeping, and will keep and make available for inspection, all such records as are necessary to secure that the Board, inspectors and other officers concerned can ensure that the total writing-down allowances made to him for all chargeable periods in respect of that machinery or plant do not exceed the limit imposed by section 27(1) of this Act, due regard being had to any initial allowance, relevant exceptional depreciation allowances and scientific research allowances made to him in respect thereof.

(8) In this section "the anticipated normal working life" has the meaning assigned to it by subsection (7) of the last preceding section, except that, in relation to a class consisting of machinery or plant which is not new when it is acquired, the reference in the said subsection (7) to the first putting into use of the machinery or plant shall be construed as a reference to the first putting into use thereof after the acquisition thereof.

Change from
normal to
alternative
method.

22.—(1) Where an election under section 21 above has effect with respect to any machinery or plant, and the writing-down allowance in respect of the same machinery or plant made to the same person for any previous chargeable period has been calculated in accordance with section 20 of this Act, the writing-down allowance for that machinery or plant for the chargeable period with respect to which the election has effect shall be computed in accordance with the following provisions, that is to say—

- (a) instead of being computed by reference to the amount of the person's expenditure in providing the machinery or plant, it shall be computed by reference to the amount by which that amount exceeds any initial allowance, writing-down allowances, relevant exceptional depreciation allowances and scientific research allowances made to that person in respect of that machinery or plant for the chargeable periods up to and including the said previous chargeable period or, if the writing-down allowance was calculated in accordance with the said section 20 in the case of more

- than one previous chargeable period, up to and including the last of those previous chargeable periods, and
- (b) it shall be computed as if for the percentage which would otherwise apply there were substituted such other percentage as the Board may determine.

In the case of expenditure to which section 21(4) above applies, the references in paragraph (b) above to a percentage are references to the basic percentage.

(2) The references in subsection (1) above to allowances calculated in accordance with section 20 of this Act shall be deemed to include references to allowances for the year 1948-49 or any previous year of assessment calculated by the application of, or of five-fourths of, a percentage intended for application, or for application when multiplied by five-fourths, to a sum which, except in the case of the first year, is less than the cost of the machinery or plant.

(3) Any reference in this section to section 20 of this Act shall be deemed to include a reference to that section as modified by the following sections of this Chapter.

23.—(1) Subject to the provisions of this Chapter, the writing-down allowance for any chargeable period in respect of any machinery or plant used for the purposes of a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature, being machinery or plant used in connection with the working of the source, shall, if the person to whom the allowance is to be made so elects when he makes his claim for the allowance—

Special method for use in connection with mines, oil wells, etc.

- (a) be computed by reference to the amount specified in section 20(1) or section 21(1) of this Act, but
- (b) be the percentage of that amount specified in subsection (2) of this section.

(2) The said percentage is such percentage as the Board may determine having regard to the date when the source is likely to cease to be worked and the probable value of the machinery or plant at that date to the person carrying on the trade.

(3) The references to section 20 of this Act contained in subsections (1) and (3) of the last preceding section shall be deemed to include references to this section where the election thereunder is that the allowance shall be computed by reference to the amount specified in section 20(1) of this Act.

(4) The references to section 21 of this Act contained in subsection (1) of the last preceding section shall be deemed to include references to this section where the election thereunder is that the allowance shall be computed by reference to the amount specified in section 21(1) of this Act.

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CHAPTER II
Adjustments of
writing-down
allowances
in special
circumstances.

24.—(1) If the Board are satisfied that the manner in which or the extent to which any machinery or plant is used in any chargeable period is such that the wear and tear thereof is greater or less than that which might be expected to be caused by the use thereof in the normal manner and to the normal extent they may give a direction under this section.

(2) If, in relation to any new machinery or plant capital expenditure on the provision of which was incurred after 5th November 1962, a direction falls to be made under this section for any chargeable period, the anticipated normal working life of the machinery or plant shall be ascertained as though it were used throughout its working life in the manner in which and to the extent to which it is used in the chargeable period in question, and the writing-down allowance in respect of the machinery or plant for that chargeable period shall be calculated as, by virtue of section 20(3), or by virtue of section 21(3), of this Act, it would be if the relevant percentage for machinery or plant of that class fell to be redetermined for the relevant year of assessment and its anticipated normal working life were as so ascertained.

(3) Subject to subsection (2) above, if, in relation to any machinery or plant, a direction falls to be made under this section for any chargeable period, the writing-down allowance in respect of that machinery or plant for that chargeable period shall be ascertained as if, for the basic percentage specified in section 20(4) or section 21(4) of this Act, or the percentage specified in section 23(2) of this Act, as the case may be, there were substituted such other percentage as the Board may determine.

(4) References in this section to the anticipated normal working life of the machinery or plant shall be construed in accordance with section 20(7) or, as the case may be, section 21(8) of this Act.

(5) Nothing in subsection (2) of this section shall affect the operation of section 23 of this Act.

Writing-down
allowances for
part of a year
of assessment.

25. If a writing-down allowance falls to be made for income tax purposes to any person in respect of any machinery or plant in taxing any trade which is carried on by him for part only of the year of assessment the said allowance, as computed in accordance with the preceding provisions of this Chapter (and in accordance with the provisions, where relevant, of section 31 of this Act, or of section 32 of this Act with Schedule 2) shall be proportionately reduced.

26.—(1) If, within such time and in such manner as may be prescribed by regulations made by the Board under this section, an application is made to the Board by or on behalf of—

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CHAPTER II
Determination
and review of
percentages.

- (a) a considerable number of the persons engaged in any class of trade, or
- (b) a considerable number of the persons who use machinery or plant of any class for the purposes of any trade carried on by them, or
- (c) any particular person concerned,

for the increase, as respects any year of assessment, of any percentage determined or deemed to be determined by the Board for any of the purposes of this Chapter in connection with any class of machinery or plant used in the class of trade in question, in connection with the class of machinery or plant in question, or in connection with any machinery or plant, or class of machinery or plant, used by the applicant, as the case may be, the Board shall consider the application and may, if they think fit, determine or redetermine the percentage in question.

(2) Where an application has been made under subsection (1) of this section, and the Board do not determine or redetermine the percentage in question or the applicant or applicants are dissatisfied with the Board's determination or redetermination thereof, the Board, if required so to do by the applicant or applicants, shall refer the application to a Board of Referees (in this section called "the Referees") appointed in accordance with subsection (7) below, and the Referees shall consider the application:

Provided that where the application is made under paragraph (c) of the said subsection (1), the Referees may, if they think fit, require the applicant to satisfy them, as respects the machinery or plant to which the application relates, that in all the circumstances it is reasonable that an application should be made otherwise than under paragraph (a) or paragraph (b) of that subsection and, in that event, the Referees shall consider the application only in so far as it relates to machinery or plant as respects which they are so satisfied.

(3) On the consideration of an application under subsection (1) of this section, either as respects all or as respects some only of the machinery or plant to which it relates, the Referees may, if they think fit, direct that, as respects the year of assessment to which the application relates, such percentage as the Referees may determine to be appropriate shall be substituted, either wholly or in such cases or classes of cases as the Referees may direct, for the percentage determined or deemed to be determined by the Board, and the liability of all persons concerned to tax shall be determined accordingly and all such assessments,

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CHAPTER II

adjustments of assessments and repayments of tax shall be made as may be necessary to give effect to the direction.

The preceding sections of this Chapter shall, in relation to the exercise by the Referees of their powers under this subsection, have effect as if the references to the Board included references to the Referees.

(4) The Board may make regulations with respect to the time within which and the manner in which applications under this section are to be made and the procedure to be followed in dealing with any such application.

The power conferred by this subsection to make regulations shall be exercisable by statutory instrument, and any statutory instrument made in the exercise of that power shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) No appeal shall lie to the General or Special Commissioners in respect of any matter which may be made or might have been made the subject of an application under this section.

(6) In the case of a percentage increased by five-fourths under section 20(4) or section 21(4) of this Act, references in this section to a percentage are references to the basic percentage.

(7) The Chairman of the Board of Referees shall be appointed by the Lord Chancellor, and the other members of that Board shall be appointed by the Treasury.

This subsection shall come into force for all purposes on 6th April 1968 to the exclusion of the provisions thereby re-enacted.

Limit on
writing-down
allowances.

27.—(1) No writing-down allowance shall be made in respect of any machinery or plant for any chargeable period if the allowance, when added to any initial allowance, relevant exceptional depreciation allowances or scientific research allowances given in respect of the machinery or plant to the person by whom the trade is carried on, and to any writing-down allowances for previous chargeable periods given in respect of the machinery or plant to that person, will make the aggregate amount of the allowances exceed the actual cost to that person of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on the machinery or plant by way of renewal, improvement or reinstatement.

(2) In the case of machinery or plant provided on or after the appointed day, the writing-down allowance for any chargeable period shall not exceed what, apart from any writing-down allowance falling to be made for that chargeable period, would be the amount of the capital expenditure on the provision of the machinery or plant still unallowed as at the beginning of the chargeable period.

28.—(1) A writing-down allowance may be made in respect of any machinery or plant in taxing a trade for any chargeable period notwithstanding that the machinery or plant is also used in that chargeable period for purposes other than those of the trade, but where, in the chargeable period or its basis period, machinery or plant is used for purposes other than those of the trade, the writing-down allowance to be made in respect thereof shall be so much only of the allowance that otherwise would be made as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent of the use for the said other purposes during the said chargeable period or its basis period.

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CHAPTER II
Part-time use otherwise than for trade purposes.

(2) Where an initial allowance has been made to a person in respect of any machinery or plant but the amount thereof has been reduced under section 18(5) of this Act on the ground that the machinery or plant will be used for purposes other than those of the trade, any writing-down allowance falling to be made in respect of that machinery or plant to that person shall be calculated as if the reduction had not been made.

29.—(1) No writing-down allowance shall be made to a person in respect of any machinery or plant in taxing a trade for any chargeable period if any sums which are in respect of, or take account of, the wear and tear to that machinery or plant occasioned by its use during that chargeable period or its basis period for the purposes of the trade and do not fall to be taken into account as his income or in computing the profits or gains of any trade carried on by him are, or are to be, payable to him directly or indirectly by the Crown, or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the person carrying on the trade:

Effect on writing-down allowances of subsidies towards wear and tear.

Provided that where the sums referred to in this subsection are in respect of, or take account of, part only of the wear and tear therein referred to—

- (a) the preceding provisions of this subsection shall not apply, but
- (b) the amount of the allowance shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case.

(2) Where an initial allowance has been made to a person in respect of any machinery or plant, but the amount thereof has been reduced under the proviso to section 18(6) of this Act on the ground that sums which are in respect of, or take account of, part only of the wear and tear of that machinery or plant are or are to be payable to him as therein mentioned, any writing-down allowance falling to be made to him in respect of that machinery or plant shall be calculated as if the reduction had not been made.

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CHAPTER II
Effect on writing-down allowances of previous user which has not attracted a writing-down allowance.

30.—(1) In determining whether any, and if so what, writing-down allowance falls to be made to a person for any chargeable period in respect of any machinery or plant which has been used by him before that chargeable period, there shall be deemed to have been made to him for every previous chargeable period (including chargeable periods during which the machinery or plant was not used for the purposes of the trade, and chargeable periods during which the trade was not carried on by him) such writing-down allowance or greater writing-down allowance, if any, as would have fallen to be made to him if all the conditions specified in subsection (2) of this section had been fulfilled in relation to every such previous chargeable period.

(2) The said conditions are as follows, that is to say—

- (a) that the trade had been carried on by the person in question ever since the date on which he acquired the machinery or plant and had been so carried on by him in such circumstances that the profits or gains thereof were liable to assessment to tax, and
- (b) that the machinery or plant had been used by him for the purposes of the trade ever since that date, and
- (c) that a proper claim had been duly made by him for a writing-down allowance in respect of the machinery or plant for every relevant chargeable period, and
- (d) that no question arose in connection with any chargeable period as to the machinery or plant having been wholly or partly used by him otherwise than for the purposes of the trade, or as to there being payable to him, directly or indirectly, any sums in respect of, or taking account of, the wear and tear of the machinery or plant.

In the case of a company paragraph (a) above shall not alter the periods which are to be taken as chargeable periods, but if during any time after the year 1965-66, and after the company acquired the machinery or plant, the company has not been within the charge to corporation tax, any year of assessment or part of a year of assessment falling within that time shall be taken as a chargeable period as if it had been an accounting period of the company.

(3) Notwithstanding anything in subsection (1) of this section, the chargeable periods for which a writing-down allowance is to be deemed thereunder to have been made shall not include chargeable periods during which machinery or plant was used only for the purposes of activities carried on by the person in question before the commencement by him of the working of a mine, oil well or other source of mineral deposits of a wasting nature, being activities consisting of—

- (a) searching for or discovering and testing deposits or winning access thereto, or

- (b) the construction of any works which are likely to be of little or no value when the source is no longer worked or, where the source is worked under a foreign concession, which are likely to become valueless when the concession comes to an end to the person working the source immediately before the concession comes to an end.

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Ships and motor cars

31.—(1) In the case of writing-down allowances in respect of capital expenditure incurred after 5th April 1965 on the provision of a new ship section 20(1) of this Act shall apply as if, instead of requiring such an allowance for a chargeable period to be a percentage, determined in accordance with the subsequent provisions of the said section 20, of the amount referred to in that subsection, it required the allowance to be so much of that amount as is specified by the person to whom the allowance is to be made in making his claim for the allowance; and accordingly the other subsections of section 20, and sections 21 and 24 of this Act, shall not apply in relation to such allowances. New ships.

(2) For the purposes of this section “new” means unused and not second-hand, but a ship shall not be treated as second-hand in relation to a claimant for an allowance in respect of it by reason of the property in the ship or any part thereof having previously passed to a person other than the claimant, if the ship has not been taken over from the builder by any such person.

32.—(1) Subject to the provisions of this section and of section 19(3) of this Act, the amount of a writing-down allowance in respect of the expenditure incurred on the provision of a vehicle to which this section applies shall not exceed £500. Motor cars.

(2) Where the amount of a writing-down allowance, if calculated in accordance with section 20 of this Act, would be reduced by subsection (1) above, the allowance shall, notwithstanding anything in section 21 or 24 of this Act, be so calculated.

(3) Schedule 2 to this Act shall have effect as respects the application of the Income Tax Acts and the Corporation Tax Acts to vehicles to which this section applies.

(4) Subject to the provisions of this section, the vehicles to which this section applies are mechanically propelled road vehicles constructed or adapted for the carriage of passengers, other than vehicles of a type not commonly used as a private vehicle and unsuitable to be so used.

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(5) This section does not apply where a vehicle is provided, or as the case may be hired, wholly or mainly for the purpose of hire to, or the carriage of, members of the public in the ordinary course of trade.

(6) This section does not apply in relation to a vehicle provided by a person who is a manufacturer of such vehicles as are mentioned in subsection (4) above, or of parts or accessories for such vehicles, if he shows that it was provided solely for the purpose of testing the vehicle or parts or accessories for such vehicles:

Provided that if during the period of five years beginning with the time when the vehicle was provided he puts it, to any substantial extent, to a use which does not serve that purpose and that purpose only, this subsection shall be deemed not to have had effect in relation to the vehicle.

(7) Subsections (1) and (2) of this section shall not apply to a writing-down allowance in respect of expenditure incurred before 17th April 1961, or to expenditure incurred under a contract entered into before that date where either—

- (a) the expenditure was incurred within twelve months after that date, or
- (b) the contract is one of hire-purchase or for purchase by instalments.

Balancing allowances, balancing charges, etc.

Balancing allowances and balancing charges.

33.—(1) Subject to the provisions of this section, where any of the following events occurs in the case of any machinery or plant belonging to a person carrying on a trade and provided or used for the purposes of the trade, that is to say, either—

- (a) any event occurring after the setting up and before the permanent discontinuance of the trade whereby the machinery or plant ceases to belong to the person carrying on the trade (whether on a sale of the machinery or plant or in any other circumstances of any description), or
- (b) any event occurring after the setting up and before the permanent discontinuance of the trade whereby the machinery or plant (while continuing to belong to the person carrying on the trade) permanently ceases to be used for the purposes of a trade carried on by him, or
- (c) the permanent discontinuance of the trade, the machinery or plant not having previously ceased to belong to the person carrying on the trade,

an allowance or charge (in this Chapter referred to as “a balancing allowance” or “a balancing charge”) shall, in the

circumstances mentioned in this section, be made to, or as the case may be, on, that person for the chargeable period related to that event :

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Provided that where as respects any machinery or plant an event falling within any of paragraphs (a), (b) or (c) above is followed by another event falling within any of those paragraphs, the later event shall not be treated as an event giving rise, or which may give rise, to a balancing allowance or balancing charge in respect of that machinery or plant.

(2) Where a discontinuance within subsection (1)(c) above occurs which gives rise, or might give rise, to a balancing allowance or balancing charge under this Chapter in respect of machinery or plant, and at or about the time of the discontinuance there occurs in relation to the machinery or plant any event such as is mentioned in paragraph (a), (b), (c) or (d) of section 86(1) of this Act, then for the purposes of this section the amount of any net proceeds, compensation, receipts or insurance moneys mentioned in the said paragraphs (a), (b), (c) and (d) of the said section 86(1) which arise on the last-mentioned event shall be deemed to be an amount of sale, insurance, salvage or compensation moneys arising on the permanent discontinuance of the trade :

Provided that this subsection shall not apply where the event within the said section 86(1) is a sale at less than the open-market price other than a sale to which section 78 of this Act applies ; and for the purposes of this proviso—

- (a) “ open-market price ”, in relation to any machinery or plant, means the price which the machinery or plant would have fetched if sold in the open market at the time of the event in question,
- (b) a sale at less than the open-market price does not include a sale in such circumstances that there is a charge to tax under Schédule E by virtue of the provisions of Chapter II of Part VI of the Income Tax Act 1952 c. 10. (taxation of benefits in kind provided for directors and employees).

(3) Where there are no sale, insurance, salvage or compensation moneys, or where the amount of the capital expenditure of the person in question on the provision of the machinery or plant still unallowed as at the time of the event exceeds those moneys, a balancing allowance shall be made, and the amount thereof shall be the amount of the expenditure still unallowed as aforesaid, or, as the case may be, of the excess thereof over the said moneys.

(4) If the sale, insurance, salvage or compensation moneys exceed the amount, if any, of the said expenditure still unallowed

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as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the said amount still unallowed is nil, to the said moneys.

(5) Notwithstanding anything in subsection (4) of this section, in no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts that is to say—

- (a) the amount of the initial allowance, if any, made to him in respect of the expenditure in question, and
- (b) the amount of any writing-down allowance made to him in respect of the machinery or plant in question, and
- (c) the amount of any relevant exceptional depreciation allowance made to him in respect of the machinery or plant, and
- (d) the amount of any scientific research allowances made to him in respect of the expenditure, and
- (e) the amount of any balancing allowance previously made to him in respect of the expenditure.

1952 c. 33.

(6) The proviso to subsection (1) above does not apply to any event as being later than an event which occurred before 9th July 1952 (the date of commencement of the Finance Act 1952).

(7) Where the loss of a ship is due to a war risk connected with any war in which His Majesty was engaged on 15th June 1945, then, notwithstanding that the loss occurs after the conclusion of, or of hostilities in, that war, no balancing charge shall be made by reason of the loss in respect of expenditure on the ship.

1939 c. 57.

In this subsection, “war risk” means any risk falling within the definition of “war risks” contained in the form of policy set out in the First Schedule to an agreement for reinsurance of British ships made by the Minister of War Transport on 16th September 1943, a copy of which was laid before each House of Parliament on 4th November 1943, in pursuance of section 1(2) of the War Risks Insurance Act 1939.

Notional
sales in
certain cases.

34.—(1) Subject to the provisions of this and the next following section, subsection (2) below shall have effect where an event occurs which gives rise or might give rise to a balancing allowance or balancing charge in respect of machinery or plant, and either—

- (a) the event is the permanent discontinuance of the trade and immediately after the time of the discontinuance the machinery or plant continues to belong to the

person by whom the trade was carried on immediately before the said time and the case is not one falling within subsection (2) of the last preceding section, or

- (b) the event is the permanent discontinuance of the trade and at the time of the discontinuance the machinery or plant is either sold at less than the open-market price, the sale not being one to which section 78 of this Act applies, or the machinery or plant is given away, or
- (c) the event is the sale of the machinery or plant at less than the open-market price, not being a sale to which the said section 78 applies, or is the gift of the machinery or plant, or
- (d) the event is that, after the setting up and before the permanent discontinuance of the trade, the machinery or plant permanently ceases to be used for the purposes of a trade carried on by the person by whom the first-mentioned trade is being carried on, and so ceases either by reason of that person's transferring the machinery or plant to other use or, on a transfer of the trade which is not treated as involving the discontinuance thereof, by reason of the retention of the machinery or plant by the transferor.

(2) For the purpose of determining whether a balancing allowance or balancing charge falls to be made and, if so, the amount of the allowance or, as the case may be, the amount on which the charge is to be made, the event shall be treated as if it had given rise to sale, insurance, salvage or compensation moneys of an amount equal to the open-market price of the machinery or plant.

(3) Subsection (2) above shall not apply by reason of a gift of machinery or plant if the machinery or plant is given away in such circumstances that there is a charge to tax under Schedule E by virtue of the provisions of Chapter II of Part VI of the Income Tax Act 1952.

1952 c. 10.

(4) In this and the next following section "open-market price", in relation to any machinery or plant, means the price which the machinery or plant would have fetched if sold in the open market at the time of the event in question, and for the purposes of this section a sale at less than the open-market price does not include a sale in such circumstances that there is a charge to tax under Schedule E by virtue of the provisions of Chapter II of Part VI of the Income Tax Act 1952.

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Notional
sale: effect
on other
party to
transaction.

35.—(1) Subject to the provisions of this section, where subsection (2) of the last preceding section has effect by reason of the gift or sale of machinery or plant to any person, and that person receives or purchases it with a view to using it for the purposes of a trade carried on by him, then in determining whether any, and if so what, writing-down allowances, balancing allowances or balancing charges are to be made in connection with that trade the like consequences shall ensue as if the recipient or purchaser had purchased the machinery or plant at the open-market price.

(2) Where in a case falling within subsection (1) above the recipient or purchaser and the donor or seller by notice in writing to the inspector jointly so elect, the following provisions shall have effect.

(3) Subsection (2) of the last preceding section and subsection (1) above shall have effect as if for the references to the open-market price there were substituted references to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the gift or sale, whichever is the lower.

(4) Notwithstanding anything in the preceding provisions of this Chapter, such balancing charge, if any, shall be made on the recipient or purchaser on any event occurring after the date of the gift or sale as would have fallen to be made on the donor or seller if the donor or seller had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the recipient or purchaser.

Demolition
costs.

36.—(1) Where machinery or plant is demolished, and the demolition either gives rise, or might give rise, to a balancing allowance or charge to or on the person incurring the cost of demolition, or (by virtue of section 33(2) of this Act) affects or might affect such an allowance or charge on the permanent discontinuance of a trade, the net cost to him of the demolition shall be added for the purposes of this Chapter to the amount of the capital expenditure incurred on the provision of that machinery or plant still unallowed as at the time of the demolition or of the discontinuance, as the case may be.

(2) The cost or net cost to a person of the demolition of any property shall not, if subsection (1) above applies to it, be treated, for the purposes of this Part or Part II of this Act, as expenditure incurred in respect of any other property by which that property is replaced.

(3) In this section any reference to the net cost of the demolition of any property is a reference to the excess, if any, of the cost of the demolition over any moneys received for the remains of the property.

37. Where any machinery or plant which has been used by a person for the purposes of a trade carried on by him has also been used by him for other purposes, then, in determining whether a balancing allowance or balancing charge falls to be made to or on him in taxing the trade and in determining the amount of the allowance or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances of the case and, in particular, to the extent of the use for the said other purposes, and there shall be made to or on him an allowance of such an amount, or, as the case may be, a charge on such an amount, as may be just and reasonable.

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Part-time use otherwise than for trade purposes.

38. No balancing allowance or balancing charge shall be made to or on any person in respect of any machinery or plant in taxing a trade if any sums which are in respect of, or take account of, the wear and tear to that machinery or plant occasioned by its use for the purposes of the trade, and do not fall to be taken into account as his income or in computing the profits or gains of any trade carried on by him, were paid, or are or are to be payable, to him directly or indirectly by the Crown, or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the person carrying on the trade :

Subsidies towards wear and tear.

Provided that where the sums referred to in this section are in respect of, or take account of, part only of the wear and tear therein referred to—

- (a) the preceding provisions of this section shall not apply, but
- (b) in determining whether it is an allowance or a charge which is to be made and the amount of the allowance or, as the case may be, the amount on which the charge is to be made, regard shall be had to all the relevant circumstances of the case and there shall be made an allowance of such an amount or, as the case may be, a charge on such an amount, as may be just and reasonable.

39.—(1) Subject to the provisions of this section, the provisions of section 30 of this Act shall apply for the purposes of determining whether any, and if so what, balancing allowance or balancing charge falls to be made to or on a person as they apply for the purpose of determining whether any, and if so what, writing-down allowance falls to be made to a person.

Effect on balancing allowances and balancing charges of previous user which has not attracted allowances.

(2) The only chargeable periods for which a writing-down allowance is to be deemed for the purposes of this section to have been made shall be chargeable periods during which the machinery or plant was not used by the person in question for

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the purposes of the trade and chargeable periods during which the trade was not carried on by him, or was not carried on by him in such circumstances that the profits or gains thereof were liable to assessment to tax.

(3) Nothing in this section shall affect the provisions of section 33(5) of this Act.

Option in case of replacement of machinery or plant.

40.—(1) Where machinery or plant in the case of which any of the events mentioned in section 33(1) of this Act has occurred is replaced by the owner thereof and a balancing charge falls to be made on him by reason of that event, or, but for the provisions of this subsection, would have fallen to be made on him by reason thereof, then, if by notice in writing to the inspector he so elects, the following provisions shall have effect, that is to say—

(a) if the amount on which the charge would have been made is greater than the capital expenditure on providing the new machinery or plant—

(i) the charge shall be made only on an amount equal to the difference, and

(ii) no initial allowance, no balancing allowance and no writing-down allowance shall be made in respect of the new machinery or plant or the expenditure on the provision thereof, and

(iii) in considering whether any, and if so what, balancing charge falls to be made in respect of the expenditure on the new machinery or plant, there shall be deemed to have been made in respect of that expenditure an initial allowance equal to the full amount of that expenditure,

(b) if the capital expenditure on providing the new machinery or plant is equal to or greater than the amount on which the charge would have been made—

(i) the charge shall not be made, and

(ii) the amount of any initial allowance in respect of the said expenditure and the amount of any writing-down allowance shall be calculated as if the expenditure had been reduced by the amount on which the charge would have been made, and

(iii) in considering whether any, and if so what, balancing allowance or balancing charge falls to be made in respect of the new machinery or plant, the initial allowance granted in respect thereof shall be deemed to have been increased by an amount equal to the amount on which the charge would have

been made or, if no initial allowance is granted, there shall be deemed to have been made an initial allowance equal to that amount.

(2) Where a person carrying on a trade replaces any machinery or plant, provided before the appointed day, which has become obsolete and that person by notice in writing to the inspector so elects—

(a) in estimating the profits or gains of the trade there shall be allowed to be deducted as expenses incurred in any chargeable period so much of any amount expended in that chargeable period in replacing the machinery or plant as is equivalent to the cost of the machinery or plant replaced after deducting from that cost—

(i) the total amount of any initial allowance, writing-down allowances, relevant exceptional depreciation allowances and scientific research allowances which have been made in respect of the machinery or plant replaced, and

(ii) any sum realised by the sale of the machinery or plant replaced, and

(b) no balancing allowance shall be made in respect of the machinery or plant replaced.

(3) Notwithstanding section 36(2) of this Act, the cost of demolishing any machinery or plant which is replaced by other machinery or plant shall be treated for the purposes of subsection (2) above both as an amount expended in replacing the machinery or plant and as part of the cost of the machinery or plant replaced.

Supplemental

41. References in this Chapter to the amount still unallowed of any expenditure as at any time shall be construed as references to the amount of that expenditure less—

Meaning of
“expenditure
unallowed.”

(a) the initial allowance, if any, made in respect thereof to the person who incurred it, and

(b) any writing-down allowances made to him in respect of the machinery or plant on the provision of which the expenditure was incurred, being allowances made for any chargeable period such that the chargeable period or its basis period ended before the time in question, and

(c) any relevant exceptional depreciation allowance made to him in respect of that machinery or plant, and

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- (d) any scientific research allowance made to him in respect of that machinery or plant, and
(e) any balancing allowance made to him in respect of the expenditure.

42.—(1) Where machinery or plant is let upon such terms that the burden of the wear and tear thereof falls directly upon the lessor, there shall be made to him, for each chargeable period, an allowance on account of the wear and tear of so much of the machinery or plant as is in use at the end of the chargeable period:

Allowances to lessors of machinery and plant.

Provided that if the letting continues for part only of the chargeable period, the allowance, as computed in accordance with the preceding provisions of this Chapter, shall be proportionately reduced.

(2) The provisions of this Chapter shall apply in relation to any such lessor of machinery or plant as is mentioned in subsection (1) of this section as if the machinery or plant were, during the period of the letting, in use for the purposes of a trade carried on by him, and as if any reference to writing-down allowances included a reference to any allowance made under this section.

Allowances to lessees of machinery and plant.

43.—(1) Where machinery or plant is let to the person by whom the trade is being carried on, on the terms of his being bound to maintain the same and deliver it over in good condition at the end of the lease, the machinery or plant shall be deemed to belong to that person for the purposes of section 19 of this Act and that person shall be deemed for those purposes to have incurred, at the time of the letting, capital expenditure equal to so much of the capital expenditure on the provision of the machinery or plant as may appear to the inspector to be just and reasonable:

Provided that this subsection shall not apply to any machinery or plant unless the inspector is satisfied, having regard to all the relevant circumstances of the case, that the burden of the wear and tear of the machinery or plant will in fact fall directly upon that person.

On an appeal to the General Commissioners or Special Commissioners, the Commissioners shall have jurisdiction to review any relevant decision taken by the inspector under this subsection.

(2) Section 31 of this Act shall not apply to allowances falling to be made to a person in respect of expenditure on the provision of a ship treated as incurred by him by virtue of subsection (1) above unless the contract of letting provides that he shall or may become the owner of the ship on the performance of the

contract; and where the contract so provides, but without becoming the owner of the ship he ceases to be entitled (otherwise than on his death) to the benefit of the contract so far as it relates to the ship, section 31 of this Act shall be deemed not to have applied to allowances falling to be made to him in respect of the ship.

(3) Where section 31 of this Act is to be deemed not to have applied to allowances for any period, there shall be made all such assessments and adjustments of assessments as may be necessary.

44.—(1) In taxing a trade carried on in partnership the same allowances, deductions and charges shall be allowed or made under this Chapter in respect of machinery or plant used for the purposes of that trade and belonging to one or more of the partners but not being partnership property as would fall to be allowed or made if the machinery or plant had at all material times belonged to all the partners and been partnership property and everything done by or to any of the partners in relation thereto had been done by or to all the partners.

Partnership
using
property of
a partner.

(2) Notwithstanding anything in section 33 of this Act, a sale or gift of machinery or plant used for the purposes of a trade carried on in partnership, being a sale or gift by one or more of the partners to one or more of the partners, shall not be treated as an event giving rise to a balancing allowance or balancing charge if the machinery or plant continues to be used after the sale or gift for the purposes of that trade.

(3) References in this section to use for the purposes of a trade do not include references to use in pursuance of a letting by the partner or partners in question to the partnership or to use in consideration of the making to the partner or partners in question of any payment which may be deducted in computing the profits or gains of the trade.

45. Where a person carrying on a trade incurs capital expenditure on alterations to an existing building incidental to the installation of machinery or plant for the purposes of the trade, the provisions of this Chapter shall have effect as if the said expenditure were expenditure on the provision of that machinery or plant and as if the works representing that expenditure formed part of that machinery or plant.

Building
alterations
connected with
installation
of machinery
or plant.

46.—(1) Any allowance or charge made to or on any person under the preceding provisions of this Chapter shall, unless it is made under or by virtue of section 40(2) of this Act, or under or by virtue of section 42 of this Act, be made to or on that person in taxing his trade.

Manner of
making
allowances
and charges.

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(2) Any allowance made under or by virtue of section 42 of this Act shall be made by way of discharge or repayment of tax and shall be available primarily against income from the letting of machinery or plant.

(3) Effect shall be given to any charge made under or by virtue of section 42 of this Act—

(a) if a charge to income tax, by making the charge under Case VI of Schedule D,

(b) if a charge to corporation tax, by treating the amount on which the charge is to be made as income from the letting of machinery or plant.

Application to professions, etc., and profits arising from occupation of land.

47.—(1) Subject to the provisions of this and the next following section, the provisions of this Chapter shall, with any necessary adaptations, apply in relation to—

(a) professions, employments, vocations and offices, and

(b) the occupation of woodlands, where the profits or gains thereof are assessable under Schedule D,

as they apply in relation to trades.

(2) Where the profits or gains arising to any person from the occupation of lands (including woodlands) have, for any chargeable period, been determined by reference to assessable value, the amount still unallowed, as at any time after the end of that chargeable period, of any expenditure incurred by that person on the provision of machinery or plant in connection with those lands shall be determined, and section 27(1) of this Act shall apply, as if there had fallen to be made to him for that chargeable period the like writing-down allowances as would have fallen to be made if, for that chargeable period, the profits or gains arising from the occupation of the lands had been determined otherwise than by reference to assessable value.

(3) The operation of the provisions of subsection (2) of this section in relation to balancing allowances and balancing charges shall not be affected by anything in section 39 of this Act, but where an allowance is deemed to have been made for any chargeable period by virtue of the said subsection (2) an allowance shall not also be deemed to have been made for the same chargeable period by virtue of the said section 39.

(4) Without prejudice to the provisions of section 98(2) of this Act, the provisions of this Chapter as applied by this section have effect subject to paragraph 2 of Schedule 2 to the Finance Act 1956 (offices and employments with duties abroad).

- 48.**—(1) Where a person succeeds to any trade which until that time was carried on by another person and, by virtue—
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- (a) of section 19 of the Finance Act 1953 (changes in ownership of trade), or
- (b) of any provision of Part IV of the Finance Act 1965, other than paragraph 7 of Schedule 16 (overseas trade corporations),
- Successions to trades.
1953 c. 34.
1965 c. 25.

the trade is to be treated as discontinued, any property which, immediately before the succession takes place, was in use for the purposes of the discontinued trade and, without being sold, is, immediately after the succession takes place, in use for the purposes of the new trade shall, for the purposes of this Chapter, be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of the sale had been the price which that property would have fetched if sold in the open market:

Provided that no initial allowance shall be made by virtue of the provisions of this subsection.

(2) Where a person succeeds to a trade as a beneficiary under the will or on the intestacy of a deceased person who carried on that trade, the following provisions of this subsection shall, if the beneficiary by notice in writing to the inspector so elects, have effect in relation to any machinery or plant which passes to him together with the trade, being machinery or plant previously owned by the deceased person and used by him for the purposes thereof, that is to say—

- (a) the reference in subsection (1) above to the price which the machinery or plant would have fetched if sold in the open market shall, in relation to the succession and any previous succession occurring on or after the death of the deceased, be deemed to be a reference to that price or the amount of the expenditure on the provision of the machinery or plant still unallowed immediately before the succession in question, whichever is the lower, and
- (b) notwithstanding anything in subsection (1) above, such balancing charge, if any, shall be made on the beneficiary on any event occurring after his succession as would have fallen to be made on the deceased if he had not died and had continued to own the machinery or plant and had done all such things and been allowed all such allowances in connection therewith as were done by or allowed to the beneficiary or the successor on any such previous succession as is mentioned in paragraph (a) above.

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(3) Subject to subsection (6) below, this subsection has effect as respects any allowance under this Chapter, other than a balancing allowance.

Where, after the setting up and before the permanent discontinuance of a trade which at any time is carried on in partnership, anything is done for the purposes thereof, any such allowance which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to him shall be made to the person or persons from time to time carrying on that trade, and the amount of any such allowance shall be computed as if that person or those persons had at all times been carrying on the trade, and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

(4) Where, after the setting up and on or before the permanent discontinuance of a trade which at any time is carried on in partnership, any event occurs which gives rise or may give rise to a balancing allowance or balancing charge under this Chapter in respect of machinery or plant, any balancing allowance or balancing charge which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to or on him in respect of that machinery or plant by reason of that event shall be made to or on the person or persons carrying on the trade at the time of that event, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them:

Provided that in applying section 33(5) of this Act to any such balancing charge, the deductions and allowances allowed or made in respect of the machinery or plant for years of assessment before the year 1946-47 shall not be taken to include deductions or allowances made to, or attributable to the shares of, persons who were not, either alone or in partnership with other persons, carrying on the trade at the beginning of that year.

(5) Notwithstanding section 47(1) above this section shall not apply to any employment or office.

(6) In this section—

(a) subsection (1) shall not apply as respects a succession before the appointed day, and in that subsection the reference to section 19 of the Finance Act 1953 includes a reference to section 145 of the Income Tax Act 1952;

- (b) subsection (2) shall not have effect if the latest of the successions therein referred to occurred before 9th July 1952 (the commencement of the Finance Act 1952);
- (c) as respects events occurring before 9th July 1952, subsection (3) shall have effect as respects balancing allowances (as well as other allowances) under this Chapter, and (with the necessary modifications) as respects balancing charges under this Chapter, and subsection (4) shall not have effect.

49.—(1) In this Chapter “the appointed day” means 6th April 1946.

(2) Without prejudice to the generality of the transitional provisions in Part III of this Act, any reference in this Chapter to a writing-down allowance shall include a reference to any deduction under Rule 6 of the Rules applicable to Cases I and II of Schedule D contained in Schedule 1 to the Income Tax Act 1918.

(3) The references to a writing-down allowance in sections 21(7), 27, 33(5), 40(2), 41 and 47(2) of this Act (but not in any other provision of this Chapter) include references to any additional deduction under section 18 of the Finance Act 1932, or under that section as amended by section 22 of the Finance Act 1938.

50.—(1) Where an allowance under Chapter III of this Act is made by virtue of section 52 of this Act in respect of any expenditure, then for the purposes of this Chapter the amount of that expenditure (whether it is the whole or part only of the capital expenditure on the machinery or plant in question) shall be taken to be equal only to the amount of any residue of that expenditure immediately after the making of the allowance or last allowance in respect thereof under the said Chapter III, and the cost of the machinery or plant shall be treated as correspondingly reduced.

The reference in this subsection to the amount of any residue of expenditure shall be construed as if this subsection were contained in the said Chapter III.

(2) No allowance shall be made under this Chapter in respect of, or of the expenditure on, any machinery or plant if, for the same or any other chargeable period, an allowance is or can be made in respect of that expenditure under the provisions of section 68 of this Act.

PART I

CHAPTER III

MINES, OIL WELLS, ETC.

The main allowances

Qualifying
expenditure:
general
provisions.

51.—(1) “Qualifying expenditure” in the provisions of this Chapter shall be construed in accordance with this and the three next following sections.

(2) “Qualifying expenditure” means, subject to subsections (3) and (4) below, capital expenditure incurred by any person in connection with the working of a mine, oil well or other source of mineral deposits of a wasting nature—

- (a) on searching for or on discovering and testing deposits, or winning access thereto, or
- (b) on the construction of any works which are likely to be of little or no value when the source is no longer worked or, where the source is worked under a foreign concession, which are likely to become valueless when the concession comes to an end to the person working the source immediately before the concession comes to an end.

(3) Subject to the following provisions of this Chapter, qualifying expenditure does not include—

- (a) any expenditure on the acquisition of the site of the source, or of the site of any such works as aforesaid, or of rights in or over any such site, or
- (b) any expenditure on the acquisition of, or of rights in or over, the deposits, or
- (c) any expenditure on works constructed wholly or mainly for subjecting the raw product of the source to any process, except a process designed for preparing the raw product for use as such, or
- (d) any expenditure on buildings or structures provided for occupation by or for the welfare of workers, or
- (e) any expenditure on a building where the whole of the building was constructed for use as an office, or
- (f) any expenditure on so much of a building or structure as was constructed for use as an office, unless the capital expenditure on the construction of the part of the building or structure constructed for use as an office was not more than one-tenth of the capital expenditure incurred on the construction of the whole of the building or structure.

(4) Subject to the next following section, qualifying expenditure does not include any expenditure on machinery or plant, or on any asset which has been treated for any chargeable period as machinery or plant.

52.—(1) Notwithstanding section 51(4) above expenditure within section 51(2)(a) above shall, subject to the other provisions of this Chapter, include expenditure on machinery or plant: Machinery and plant used for exploration.

Provided that this Part of this Act shall have effect subject to Schedule 5 to this Act.

(2) Notwithstanding anything in subsection (1) above, where in any chargeable period a machinery or plant allowance is or has been made in respect of any expenditure, that expenditure shall not by virtue of subsection (1) above be treated in relation to that or any subsequent chargeable period as qualifying expenditure.

In this subsection “machinery or plant allowance” means an initial allowance under Chapter II of this Part of this Act, or a writing-down allowance within the meaning of the said Chapter II.

53.—(1) Subject to this section, capital expenditure incurred by any person in connection with the working of a mine, oil well or other source of mineral deposits of a wasting nature outside the United Kingdom, being expenditure on the acquisition of, or of rights in or over, the deposits, shall, notwithstanding anything in section 51 of this Act, be qualifying expenditure: Overseas mineral rights.

Provided that this Part of this Act shall have effect subject to Schedule 5 to this Act.

(2) References in this section to expenditure on the acquisition of deposits or rights shall not in any event include—

- (a) expenditure which, apart from this and the next following section, is qualifying expenditure as defined in section 51(1) of this Act, or
- (b) expenditure on machinery or plant, or on any asset which has been treated for any chargeable period as machinery or plant, or
- (c) expenditure on any building or structure.

(3) References in this section to capital expenditure include references to any payments of minimum royalties or dead rents,

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or any other similar payments, being payments of royalties or rents or other payments which cannot be taken into account as deductions in computing profits or gains for tax purposes by reason of the fact that no trade, or no relevant trade, was being carried on at the relevant time by the person making the payments.

(4) In no case shall the amount on which a balancing charge is made upon a person be increased by virtue of the provisions of this section by more than the total amount by which writing-down allowances made to that person are increased by virtue thereof.

Acquisition
of land
outside the
United
Kingdom.

54.—(1) Subject to this section, capital expenditure incurred by any person in connection with the working of a mine, oil well or other source of mineral deposits of a wasting nature under a foreign concession, being expenditure on the acquisition of land outside the United Kingdom which is to be used in connection with the working of the source and is likely to become valueless when the concession comes to an end to the person working the source immediately before the concession comes to an end, shall, notwithstanding anything in section 51 of this Act, be qualifying expenditure :

Provided that this Part of this Act shall have effect subject to Schedule 5 to this Act.

(2) This section shall not apply—

- (a) to expenditure which, apart from this section, is qualifying expenditure, or
- (b) to expenditure on machinery or plant, or on any asset which has been treated for any chargeable period as machinery or plant, or
- (c) to expenditure on the acquisition of a building or structure for use in connection with the working of a source of mineral deposits, in so far as the expenditure is attributable to the building or structure and not to its site, if—
 - (i) the building or structure when so used is an industrial building or structure within the meaning of Chapter I of this Part of this Act, and
 - (ii) the interest acquired is the relevant interest, within the meaning of that Chapter, in relation to the capital expenditure incurred on the construction of that building or structure.

(3) In no case shall the amount on which a balancing charge is made upon a person be increased by virtue of the provisions of this section by more than the total amount by which writing-down allowances made to that person are increased by virtue thereof.

55.—(1) The net cost to a person of the demolition of an asset representing qualifying expenditure incurred by him shall be added for the purposes of this Chapter to the residue, immediately before the demolition, of the expenditure represented by the asset. Demolition costs.

(2) The cost or net cost to a person of the demolition of any property shall not, if subsection (1) above applies to it, be treated, for the purposes of this Part or Part II of this Act, as expenditure incurred in respect of any other property by which that property is replaced.

(3) Any reference in this section to the net cost of the demolition of any property is a reference to the excess, if any, of the cost of the demolition over any moneys received for the remains of the property.

56.—(1) Where a person carrying on a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature incurs for the purposes of the trade any qualifying expenditure on the construction of works likely to have little or no value to him when the source is no longer worked, there shall be made to him, for the chargeable period related to the incurring of the expenditure, an allowance (in this Chapter referred to as “an initial allowance”). Initial allowances.

(2) The initial allowance shall be of an amount equal to two-fifths of the expenditure within subsection (1) above:

Provided that this subsection shall have effect subject to the provisions of Schedule 1 to this Act.

57.—(1) Subject to the provisions of this section, where a person carrying on a trade which consists of or includes the working of any mine, oil well or other source of mineral deposits of a wasting nature has, at any time before the end of a chargeable period or its basis period, incurred for the purposes of that trade qualifying expenditure, an allowance (in this Chapter referred to as a “writing-down allowance”) shall be made to him for that chargeable period in respect of the whole Writing-down allowances.

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of the qualifying expenditure which he has incurred for the purposes of the trade and in connection with that source at any time before the end of the said chargeable period or its basis period.

(2) The amount of the said allowance shall be the amount which results from applying to the residue of the expenditure the

A

fraction $\frac{\text{A}}{\text{A} + \text{B}}$ where—

“A” is the output from the source in question in the chargeable period in question or its basis period, and

“B” is the total potential future output of the source, estimated as at the end of the said chargeable period or its basis period,

or the alternative fraction specified in subsection (3) below, whichever is the greater.

(3) The said alternative fraction is one-twentieth, so, however, that for a chargeable period of less than a year that alternative fraction shall be proportionately reduced.

(4) Where the source ceases to be worked or, in the case of a source worked under a foreign concession, the concession comes to an end, the person carrying on the trade may elect that the writing-down allowances, if any, for any chargeable period beginning within the six years which end with the date of that event shall be computed as if the reference in subsection (2) of this section to the total potential future output of the source estimated as at the end of the chargeable period or its basis period were a reference to the actual output of the source between the end of the chargeable period or its basis period and the happening of the said event, and the said allowances shall be computed accordingly, and notwithstanding anything in the Income Tax Acts or the Corporation Tax Acts limiting the time for the making of assessments or the allowance of claims for repayment, all such repayments and assessments shall be made as are necessary to enable effect to be given to this subsection.

(5) Subsection (1) above shall not apply to expenditure incurred before the appointed day, but where, on the appointed day, a person was carrying on a trade which consisted of or included the working of a mine, oil well or other source of mineral deposits of a wasting nature, the preceding provisions of this section shall have effect as if he had on that day incurred for the purposes of the trade and in connection with the source qualifying expenditure of the amount specified in Schedule 6 to this Act:

Provided that if he considers that that amount is inadequate having regard to the dates on which qualifying expenditure was

actually incurred in connection with the source before the appointed day, he may apply to the inspector for relief, and the inspector may authorise such increase in that amount as may be appropriate.

On an appeal to the General Commissioners or Special Commissioners, the Commissioners shall have jurisdiction to review any relevant decision taken by the inspector under this subsection.

(6) References in this section to the residue of any expenditure, in relation to the writing-down allowance to be made for any chargeable period, are references to the amount thereof which remains after deducting therefrom—

- (a) any initial allowances made in respect of that expenditure or any part thereof for that or any previous chargeable period, and
- (b) any writing-down allowances made in respect of that expenditure or any part thereof for any previous chargeable period, and
- (c) where the expenditure consists of or includes expenditure on a building, any relevant exceptional depreciation allowances made in respect of the building for the year 1946-47, and
- (d) subject to the provisions of the next following section, if, before the end of the chargeable period for which the allowance is to be made, or its basis period, any asset representing the expenditure is sold or demolished or destroyed, the sale, insurance, salvage or compensation moneys.

58.—(1) The provisions of this section shall have effect where—

- (a) a person who is carrying on a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature sells assets representing qualifying expenditure, and
- (b) the buyer of those assets buys them for the purposes of a trade carried on or to be carried on by him, being a trade which consists of or includes the working of the whole or any part of the source in connection with which the assets were provided.

Sale of source or part of source as going concern.

(2) If the net proceeds of the sale are less than the residue of the expenditure on the assets immediately before the sale, an allowance (in this Chapter referred to as “a balancing allowance”) shall be made to the seller, for the chargeable period related to the sale, equal to the difference.

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(3) If the net proceeds of the sale exceed the residue of the expenditure on the assets immediately before the sale, a charge (in this Chapter referred to as "a balancing charge") shall be made on the seller, for the chargeable period related to the sale, on the amount of the excess.

(4) If the source in connection with which the expenditure was incurred has been worked before the appointed day, subsections (2) and (3) of this section shall have effect subject to the modification that the amount of the balancing allowance or the amount on which the balancing charge is made shall be

reduced by applying thereto the fraction $\frac{A}{B}$ where—

"A" is the total output from the source in the period which begins with the appointed day and ends with the time of the sale, and

"B" is the total output from the source up to the time of the sale:

Provided that if the person to whom a balancing allowance is to be made in respect of any expenditure considers that the amount by which the allowance is to be reduced under this subsection is excessive having regard to the dates on which the expenditure was actually incurred, he may apply to the inspector for relief, and the inspector may authorise such smaller reduction as may be appropriate.

On an appeal to the General Commissioners or Special Commissioners, the Commissioners shall have jurisdiction to review any relevant decision taken by the inspector under this subsection.

(5) In no case shall the amount on which a balancing charge is made upon a person in respect of any assets exceed the difference between—

(a) the qualifying expenditure which he incurred upon the assets, and

(b) the residue of that expenditure immediately before the sale.

(6) Whether a balancing allowance or balancing charge is made upon the seller or not, the deduction to be made in the case of the seller in respect of the assets under subsection (6)(d) of the last preceding section shall, instead of being the sale, insurance, salvage or compensation moneys, be the residue of the expenditure attributable to the assets immediately before the sale.

(7) The buyer shall, for the purposes of the provisions of this Chapter relating to writing-down allowances, balancing allowances and balancing charges, be deemed to have incurred

on the assets at the time of the sale qualifying expenditure equal to whichever is the less of the following amounts, that is to say—

- (a) so much of the price as is attributable to the assets, and
- (b) the residue of the expenditure on the assets immediately after the sale:

Provided that this subsection shall not apply in relation to a sale before the appointed day.

59. Where a person incurs qualifying expenditure on searching for, discovering and testing the mineral deposits of any mine, oil well or other source of a wasting nature and winning access to those deposits, and, without having carried on any trade which consists of or includes the working of the source, he sells any assets representing that expenditure, then, if the person who acquires the assets carries on such a trade as aforesaid in connection with the source, that person shall, for the purposes of this Chapter, be deemed to have incurred for the purposes of the trade and in connection with the source qualifying expenditure equal to the amount of the qualifying expenditure which is represented by the assets or the price paid by him for the assets, whichever is the smaller.

Expenditure incurred by persons not engaged in the trade of mining, etc.

Other allowances

60.—(1) Subject to the provisions of this section, where, for the purposes of a trade carried on or about to be carried on by him, a person incurs capital expenditure on the acquisition of a mineral asset the acquisition of which entitles him to work a mine, oil well or other source of mineral deposits of a wasting nature in the United Kingdom, and the trade consists of or includes the working of that source, he shall be entitled for the chargeable period related to the incurring of the expenditure and subsequent chargeable periods to a writing-down allowance in respect of the expenditure.

Writing-down allowances for mineral depletion in the United Kingdom.

(2) Subject as aforesaid, the writing-down allowance for a chargeable period shall be equal to the fraction mentioned below of the royalty value of the output in that chargeable period or its basis period from the source to which the expenditure relates, that is to say—

- (a) where the first working of the source after the expenditure was incurred was less than ten years before the end of that chargeable period or its basis period, one-half,
- (b) where that first working was less than twenty but not less than ten years before the end of the chargeable period or its basis period, one-quarter,
- (c) in any other case, one-tenth.

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1963 c. 25.

(3) A writing-down allowance under this section in respect of any expenditure shall not be made to a person for a chargeable period unless the amount of the expenditure exceeds the aggregate of any allowances under this section made to him for previous chargeable periods in respect of the expenditure together with any capital sums accruing to him in or before the said chargeable period or its basis period by virtue of his acquisition of the mineral asset in question, and where made shall not be greater than the amount of the excess; and for this purpose there shall be deemed to have been made for years preceding the year 1963-64 such annual allowances as would have fallen to be made if section 37 of the Finance Act 1963 (which is re-enacted in this section) had always had effect.

(4) Where in any chargeable period or its basis period a person ceases to work the source to which capital expenditure incurred by him relates and, apart from this and the last preceding subsection, a writing-down allowance under this section would fall to be made to him for that chargeable period in respect of the expenditure, the allowance shall not be made, and—

- (a) if the aggregate of any allowances under this section made to him for previous chargeable periods in respect of the expenditure exceeds so much of the expenditure as represents the cost of acquiring the output got by him from the source (other than output got before 4th April 1963), a balancing charge on an amount equal to the excess shall be made on him for that chargeable period, or
- (b) if that aggregate is less than so much of the expenditure as represents the cost of acquiring that output, a balancing allowance equal to the difference shall be made to him for that chargeable period.

(5) So much of the capital expenditure incurred by a person on the acquisition of a mineral asset as remains after deducting—

- (a) the market value of the asset at the time the source to which the expenditure relates ceases to be worked by him, and
- (b) any capital sums accruing to him before that time by virtue of his acquisition of the asset,

shall be taken for the purposes of subsection (4) above to represent the cost of acquiring the output got by him from the source; and where part of the output was got by him before 4th April 1963, the cost of acquiring the part got on or after that date shall be taken for those purposes to be an amount which bears to the amount so remaining the same proportion

as the royalty value of the output from the source on or after that date bears to the royalty value of the whole output got by virtue of the expenditure.

In this subsection "market value", in relation to an asset, means the price which it might reasonably be expected to fetch on a sale in the open market (whether for use by the purchaser for mining purposes or other purposes) if, before the sale, the owner of the asset had carried out such works (if any) for restoring or otherwise making good the land surface at the site of the source as, having regard to the obligations imposed on him and other relevant circumstances, he might reasonably be expected to carry out whether or not he sold the asset, but reduced by so much of that price as is attributable to matters not representing any part of the capital expenditure in question.

(6) Where a balancing adjustment is made in respect of a person under subsection (4) of this section, or would fall to be so made if the relevant amounts were not equal, and after ceasing to work the source he carries out any works for restoring or otherwise making good the land surface at the site of the source, the cost of those works shall not be taken into account in computing for the purposes of tax under Case I of Schedule D the profits or gains of his trade unless it was assumed, in computing the market value of the asset for the purposes of the said subsection (4), that those works would be carried out.

(7) Where any allowance under this section falls to be made to a person for the chargeable period related to his ceasing to work the source to which the expenditure relates, or for a previous chargeable period, and in a later chargeable period or its basis period he again begins to work the source, then—

- (a) in computing, in accordance with subsection (2) of this section, the amount of a writing-down allowance for the later chargeable period or any subsequent chargeable period, the period between the cessation and recommencement of working shall be disregarded, and
- (b) in computing, for the purposes of subsection (3) or (4) of this section, the aggregate of allowances for previous chargeable periods, those allowances shall be treated as reduced by the amount on which any balancing charge under paragraph (a) of the said subsection (4) has been made in respect of the expenditure.

(8) Where a person (in this subsection referred to as "the transferee") acquires a mineral asset from another person (in this subsection referred to as "the transferor"), and the transferee is a body of persons over whom the transferor has control, or the transferor is a body of persons over whom the transferee has control, or both the transferee and the transferor are bodies

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of persons and some other person has control over both of them, the capital expenditure incurred by the transferee on the acquisition of the asset shall be taken for the purposes of this section (including this subsection) not to exceed the capital expenditure incurred by the transferor on its acquisition by him or, where the asset consists of an interest or right granted by the transferor, so much of the capital expenditure so incurred by the transferor as, on a just apportionment, is referable to that interest or right; and the expenditure incurred by the transferee shall where necessary be treated as reduced accordingly.

(9) Where in any chargeable period or its basis period a person, having previously incurred capital expenditure on the acquisition of a mineral asset the acquisition of which entitled him to work a source, incurs for the purposes of the trade capital expenditure on the acquisition of another mineral asset the acquisition of which entitles him to work the same source, this section shall apply as respects that chargeable period and subsequent chargeable periods as if the assets were one mineral asset capital expenditure on the acquisition of which was incurred by him when he incurred the first-mentioned expenditure and was of an amount equal to the aggregate of that expenditure and the further expenditure:

Provided that where the first-mentioned expenditure was incurred before 4th April 1963 and the further expenditure on or after that date—

- (a) no greater allowances shall for the purpose of subsection (3) of this section be deemed by reason of this subsection to have been made before that date, and
- (b) the cost of acquiring output got before that date, as computed under subsection (5) of this section, shall not by reason of this subsection be treated as increased.

If the asset to which the further expenditure relates extends to mineral deposits or land not included in the asset to which the first-mentioned expenditure relates, so much of it as so extends shall be treated for the purposes of this section as a separate mineral asset, and the further expenditure shall be apportioned between the assets as may be just.

(10) References in this section to expenditure on the acquisition of an asset do not include—

- (a) qualifying expenditure as defined in section 51(1) of this Act, or
- (b) expenditure on machinery or plant, or on any asset which has been treated for any chargeable period as machinery or plant, or

(c) expenditure on any building or structure,

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and where expenditure was incurred on the acquisition of an asset in respect of which, for chargeable periods previous to a chargeable period for which he first becomes entitled in respect of the expenditure to an allowance under this section, the person incurring the expenditure has been allowed any deductions under Schedule 9 to the Finance Act 1963, the expenditure shall be treated for the purposes of this section as reduced by so much of those deductions as, if he had been entitled to an allowance under this section for earlier chargeable periods, would have been excluded by paragraph 5 of that Schedule. 1963 c. 25.

(11) In this section—

“basis period” means, for any year of assessment, the period on the profits or gains of which income tax for that year falls to be finally computed under Case I of Schedule D in respect of the trade in question or, where, by virtue of any provision of section 127 of the Income Tax Act 1952, the profits or gains of any other period are to be taken to be the profits or gains of the said period, that other period; 1952 c. 10.

“mineral asset” means any mineral deposits or land comprising mineral deposits, or any interest in or right over such deposits or land;

“output”, in relation to a source, means mineral deposits lifted or extracted from the source;

“royalty value”, in relation to any output from a source, means the amount of the royalties that would be payable on that output if the person working the source were a lessee under a lease, for a term expiring immediately after that output was produced, granted to him at the date when the expenditure in question was incurred and providing for the payment of such royalties on output from the source as might reasonably have been expected to be provided for by such a lease, but reduced by the amount of any royalties actually payable in respect of that output.

(12) This subsection shall have effect for determining for the purposes of this section the amount of any capital sum accruing to a person by virtue of his acquisition of a mineral asset.

Where the property in question is sold at a price other than that which it would have fetched if sold in the open market, the like consequences shall ensue for the said purposes as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

C

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Contributions
by mining
concerns to
public services,
etc., outside
the United
Kingdom.

61.—(1) Subject to the provisions of this section, where a person, for the purposes of a trade carried on by him which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature outside the United Kingdom, incurs expenditure by contributing a capital sum to the cost of—

- (a) buildings to be occupied by persons employed at or in connection with the working of that source, or
- (b) works for the supply of water, gas or electricity wholly or mainly to buildings occupied or to be occupied by persons so employed, or
- (c) works to be used in providing other services or facilities wholly or mainly for the welfare of persons so employed or their dependants,

and the buildings or works are likely to be of little or no value when the source is no longer worked, then writing-down allowances shall be made to him in respect of that expenditure during a writing-down period of ten years beginning with the chargeable period related to the incurring of the expenditure.

(2) This section shall not apply—

- (a) to expenditure resulting in the acquisition of an asset by the person incurring the expenditure, or
- (b) to expenditure in respect of which an allowance may be made under any other provision of the Income Tax Acts or the Corporation Tax Acts (or might be so made if this section, and section 22 of the Finance Act 1952, which is re-enacted in this section, had not been passed).

1952 c. 33.

(3) If a person who has incurred expenditure to which this section applies in connection with any source of mineral deposits sells his interest in that source to a person who buys it for the purpose of a trade carried on or to be carried on by him, being a trade which consists of or includes the working of that source, then—

- (a) no allowance in respect of that expenditure shall be made to the first-mentioned person for any chargeable period after the chargeable period related to the sale, and the allowance (if any) to be made to him for the chargeable period related to the sale shall be the fraction of the full allowance which the part of the chargeable period related to the sale falling before the sale is of the whole of the said chargeable period related to the sale, and

- (b) for the part of the writing-down period remaining at the beginning of the last chargeable period for which an allowance is made to the first-mentioned person, allowances shall be made to the second-mentioned person as if he had incurred the expenditure for the purposes of the said trade, but so that the allowance for a chargeable period not wholly comprised in that part of the writing-down period shall be proportionately reduced.

(4) If a person who has incurred expenditure to which this section applies in connection with any source of mineral deposits sells his interest in part of that source to a person who buys it for the purpose of a trade carried on or to be carried on by him, being a trade which consists of or includes the working of that part of the source, then the last preceding subsection shall apply to so much of the expenditure as is referable to that part of the source as it would apply to the whole of the expenditure on a sale extending to the whole of the source, and any allowance in respect of the expenditure shall be apportioned accordingly.

62.—(1) Subject to the provisions of this section, where the person carrying on a trade which consists of or includes the working of any mine, oil well or other source of mineral deposits of a wasting nature incurs expenditure in connection with that trade on searching for, or on discovering and testing, the mineral deposits of any source or winning access thereto, but gives up the search, exploration or inquiry upon which the expenditure is incurred without having carried on any trade which consists of or includes the working of the source in question, then in computing for the purposes of tax the profits or gains or losses of the trade in connection with which the expenditure is incurred there shall be allowed a deduction of an amount equal to the amount of that expenditure as if it were expenses incurred for the purpose of the trade at the time when he gives up the search, exploration or inquiry.

Expenditure by mining concerns on abortive exploration.

(2) This section shall not apply—

- (a) to expenditure incurred in the course of a trade which consists of or includes the searching for, discovering and testing of mineral deposits and winning access thereto, if it is expenditure which is, apart from this section, allowed to be deducted in computing, for the purposes of tax, the profits or gains of that trade, or
- (b) to any other expenditure incurred by a person in connection with a source, unless it would have been qualifying expenditure as defined in section 51(1) of this Act if he had begun working the source in the course

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of a trade at the time when he gives up the search, exploration or inquiry,

and the same expenditure shall not be taken into account for the purposes of this section in relation to more than one trade.

(3) The preceding provisions of this section shall not affect the right to any deduction or allowance under any other provision of the Income Tax Acts or the Corporation Tax Acts, but—

- (a) a person shall not be entitled to a deduction or allowance in respect of the same expenditure both under this section and under some other provision of those Acts, and
- (b) section 59 of this Act shall not apply to expenditure in respect of which a deduction has been allowed under this section.

Supplemental

Regulations.

63.—(1) The Board may make regulations for carrying this Chapter into effect, and those regulations may in particular—

- (a) lay down rules for determining the extent of the mineral deposits which are to be taken, for all or any of the purposes of this Chapter, as constituting a source and the amount of the output from a source in any year or over any period, and in estimating total potential future output for any of those purposes,
- (b) lay down rules for determining the residue of the expenditure attributable to an asset immediately before, or immediately after, the sale thereof,
- (c) in relation to cases in which, by virtue of the provisions of this Chapter, a person is deemed to have incurred expenditure on the appointed day, lay down rules for determining what assets are to be treated as representing that expenditure and how much of that expenditure is to be treated as incurred on any particular asset,
- (d) lay down rules for determining, for the purposes of any application under this Chapter, whether and by how much—
 - (i) the amount of the expenditure which, under this Chapter, a person is to be treated as having incurred on the appointed day is inadequate, or
 - (ii) the amount by which any allowance is to be reduced under this Chapter is excessive.

(2) The power conferred by this section to make regulations shall be exercisable by statutory instrument and all regulations

under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

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(3) References in subsection (1) above to this Chapter do not include references to section 60 of this Act.

64. Any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of the provisions of this Chapter, other than section 60, as if it had been incurred by that person on the first day on which he does carry it on. Expenditure prior to commencement of trade.

65.—(1) In this Chapter “the appointed day” means— Interpretation of Chapter III.

(a) in relation to expenditure which is qualifying expenditure by virtue of section 52 or section 54 of this Act, 6th April 1952,

(b) in relation to expenditure to which section 53(1) of this Act applies, 6th April 1949,

(c) in relation to any other qualifying expenditure as defined at the beginning of this Chapter, 6th April 1946.

(2) Any reference in this Chapter to assets representing any expenditure includes, in relation to expenditure on searching for, discovering and testing deposits, any results obtained from any search, exploration or inquiry upon which the expenditure was incurred.

66. All allowances and charges falling to be made under this Chapter to or on any person shall be made to or on him in taxing his trade. Manner of making allowances and charges.

CHAPTER IV

DREDGING

67.—(1) Subject to the provisions of this section, where a person for the purposes of any qualifying trade carried on by him incurs capital expenditure on dredging, and either the trade consists of the maintenance or improvement of the navigation of a harbour, estuary or waterway or the dredging is for the benefit of vessels coming to, leaving or using any dock or other premises occupied by him for the purposes of the trade, then— Capital allowances for expenditure on dredging.

(a) an initial allowance shall be made for the first relevant chargeable period to the person incurring the expenditure, and, subject to Schedule 1 to this Act, the amount of the initial allowance shall be three-twentieths of the expenditure, and

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(b) writing-down allowances shall be made in respect of that expenditure to the person for the time being carrying on the trade during a writing-down period of twenty-five years (or, where the expenditure was incurred before 6th November 1962, fifty years) beginning with the first relevant chargeable period, but where a writing-down allowance falls to be made for a year of assessment to such a person, and he is within the charge to income tax in respect of the trade for part only of that year, that part shall be treated as a separate chargeable period for the purposes of computing allowances under this section.

(2) If the trade is permanently discontinued in any chargeable period, then for that chargeable period there shall be made to the person last carrying on the trade, in addition to any other allowance made to him, an allowance equal to the amount of the expenditure less the allowances made in respect of it under the preceding subsection for that and previous chargeable periods.

1956 c. 54.

The reference in this subsection to allowances made for previous chargeable periods (which, by virtue of Part III of this Act, may include allowances under section 17 of the Finance Act 1956, which is re-enacted in this section) shall be construed, except as regards initial allowances, as if the said section 17 had always had effect (instead of having effect only for chargeable periods after the year 1955-56).

1953 c. 34.

1965 c. 25.

(3) For the purposes of this section, a trade shall not be treated by virtue of section 19 of the Finance Act 1953 (changes in persons carrying on a trade), or by virtue of any provision of Part IV of the Finance Act 1965 other than paragraph 7 of Schedule 16 (overseas trade corporations), as permanently discontinued; but, subject to section 61(2) of the Finance Act 1965 (company reconstructions, etc.), where a trade is sold, it shall be treated for those purposes as having been permanently discontinued at the time of the sale, unless the sale is such a sale as is specified in section 78 of this Act.

(4) Any allowance under this section shall be made in taxing the trade.

(5) Where expenditure is incurred partly for the purposes of a qualifying trade and partly for other purposes, subsection (1) of this section shall apply to so much only of that expenditure as on a just apportionment ought fairly to be treated as incurred for the purposes of that trade.

(6) In this section “qualifying trade” means any trade or undertaking which, or a part of which, complies with any of the following conditions, that is to say—

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(a) the condition that it consists of the maintenance or improvement of the navigation of a harbour, estuary or waterway, or

(b) any condition set out in the provisions of section 7(1) of this Act,

but where part only of a trade or undertaking complies with those conditions, subsection (5) of this section shall apply as if the part which does and the part which does not comply were separate trades.

(7) Where a person incurs capital expenditure for the purposes of a trade or part of a trade not yet carried on by him but with a view to carrying it on, or incurs capital expenditure in connection with a dock or other premises not yet occupied by him for the purposes of a qualifying trade but with a view to so occupying the dock or premises, the preceding provisions of this section shall apply as if he had been carrying on the trade or part of the trade or occupying the dock or premises for the purposes of the qualifying trade, as the case may be, at the time when the expenditure was incurred.

(8) For the purposes of this section, the first relevant chargeable period, in relation to expenditure incurred by any person, is the chargeable period related to the following event or occasion, that is—

(a) the incurring of the expenditure, or

(b) in the case of expenditure for which allowances are to be made by virtue of subsection (7) of this section, the occasion when he first both carries on the trade or part of the trade for the purpose of which the expenditure was incurred, and occupies for the purposes of that trade or part of the trade the dock or other premises in connection with which it was incurred.

(9) Where a person contributes a capital sum to expenditure on dredging incurred by another person, he shall be treated as incurring capital expenditure on that dredging, and capital expenditure incurred by any person shall not be treated as incurred for the purposes of any trade carried on or to be carried on by him in so far as it has been or is to be met directly or indirectly by the Crown or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by capital sums contributed by any other person for purposes other than those of that trade.

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CHAPTER IV

(10) In this section “dredging” does not include things done otherwise than in the interests of navigation, but (subject to that) includes the removal of anything forming part of or projecting from the bed of the sea or of any inland water, by whatever means it is removed and whether or not at the time of removal it is wholly or partly above water; and this section shall apply to the widening of an inland waterway in the interests of navigation as it applies to dredging.

(11) No allowance shall be made by virtue of this section in respect of any expenditure if for the same or any other chargeable period an allowance is or can be made in respect of it under any of the provisions of Chapter I or II of this Part of this Act.

CHAPTER V

AGRICULTURAL LAND AND BUILDINGS

Allowances
for capital
expenditure on
construction
of buildings
and other
works.

68.—(1) Subject to the provisions of this section, where the owner or tenant of any agricultural or forestry land incurs any capital expenditure on the construction of farmhouses, farm or forestry buildings, cottages, fences or other works, writing-down allowances shall be made to him in respect of the expenditure during a writing-down period of ten years beginning with the chargeable period related to the incurring of that expenditure.

(2) Any allowance under this section shall be made by way of discharge or repayment of tax and shall be available primarily against agricultural income and forestry income.

(3) No expenditure shall be taken into account for the purposes of this section unless it is incurred for the purposes of husbandry or forestry on the agricultural or forestry land in question, and—

(a) where the expenditure is on a farmhouse, one-third only of the expenditure shall be taken into account, or, if the accommodation and amenities of the farmhouse are out of due relation to the nature and extent of the farm, such proportion thereof not greater than one-third as may be just,

(b) where expenditure is incurred on any asset other than a farmhouse, being an asset which is to serve partly the purposes of husbandry or forestry and partly other purposes, such apportionment of the expenditure shall be made for the purposes of this subsection as may be just.

(4) Where a person would, if he continued to be the owner or, as the case may be, the tenant of any land, be entitled under

this section to an allowance in respect of any expenditure, and the whole of his interest in the land in question, or in any part of the land in question, is transferred, whether by operation of law or otherwise, to some other person, then, for the part of the writing-down period falling after the date of the transfer, the person to whom the interest is transferred shall, to the exclusion of the person from whom it is transferred, be entitled to the allowances (any allowance to either of them for a chargeable period falling partly before and partly within that part of the writing-down period being reduced accordingly):

Provided that, where the interest transferred is in part only of the land, this subsection shall apply to so much of the allowance as is properly referable to that part of the land as if it were a separate allowance.

(5) For the purposes of the last preceding subsection, where an interest in land is a tenancy and that tenancy comes to an end, that interest shall be deemed to have been transferred—

- (a) if an incoming tenant makes any payment to the outgoing tenant in respect of assets representing the expenditure in question, to the incoming tenant, and
- (b) in any other case, to the owner of the interest in immediate reversion on the tenancy.

(6) For the purposes of this section as it applies for income tax purposes, the basis period for a year of assessment is the year ending with 31st March next preceding that year of assessment, or with such other date as may be agreed by the owner or tenant in question and the inspector, and section 72 of this Act shall not apply for the purposes of this section.

69. In section 68 above—

“agricultural land” means land, houses or other buildings in the United Kingdom occupied wholly or mainly for the purpose of husbandry;

“agricultural income” means income chargeable under Case VIII of Schedule D in respect of agricultural land, and income chargeable under Schedule D in respect of farming or market gardening in the United Kingdom;

“forestry land” means woodlands in the United Kingdom in respect of which an election is in force for assessment and charge to tax under Schedule D by virtue of section 125 of the Income Tax Act 1952, and any houses or other buildings in the United Kingdom which are occupied together with, and wholly or mainly for the purposes of, such woodlands;

Interpretation
of preceding
section.

1952 c. 10.

C*

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CHAPTER V

“forestry income” means income chargeable under Case VIII of Schedule D in respect of forestry land, and income chargeable under Schedule D in respect of the occupation of woodlands in the United Kingdom.

CHAPTER VI

MISCELLANEOUS AND GENERAL

Income tax

Income tax allowances and charges in taxing a trade, etc.

70.—(1) This and the next following section have effect as respects allowances and charges which fall to be made under the provisions of this Part of this Act as they apply for the purposes of income tax.

(2) Allowances which fall to be made to a person in taxing his trade shall be made as a deduction in charging the profits or gains of the trade to income tax.

(3) Any claim by a person for an allowance falling to be made to him in taxing his trade shall be made in his returns of income for income tax purposes, and, in the case of an allowance under section 60 of this Act, the claim shall be in such form and accompanied by such plans and other particulars as the Board may direct.

(4) Where full effect cannot be given in any year to any allowance falling to be made in taxing a trade owing to there being no profits or gains of the trade chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall, for the purpose of making the assessment to income tax for the following year, be added to the amount of such allowances as aforesaid for that year, and be deemed to be part of those allowances, or, if there are no such allowances for that year, be deemed to be the allowances for that year, and so on for succeeding years.

1954 c. 44.

(5) Without prejudice to the provisions of section 98(2) of this Act, subsection (4) above has effect subject to section 20 of the Finance Act 1954 (right to set capital allowances against general income).

(6) Any charge falling to be made on a person for any year of assessment in taxing his trade shall be made by means of an assessment to income tax on the profits or gains of that trade for that year of assessment in addition to any other assessment falling to be made thereon for that year.

(7) This section shall apply in relation to professions, employments, vocations and offices, and the occupation of woodlands the profits or gains whereof are assessable under Schedule D,

as it applies in relation to trades, and nothing in this section applies to any deduction allowable under any provision of this Part of this Act in computing the profits or gains of a trade. PART I
CHAPTER VI

71.—(1) Where an allowance falls to be made to a person for any year of assessment which is to be given by way of discharge or repayment of tax, and is to be available primarily against a specified class of income— Other
income tax
allowances.

- (a) the amount of the allowance shall be deducted from or set off against income of his of that class for that year of assessment, and
- (b) if the amount to be allowed is greater than the amount of his income of that class for that year of assessment, the balance shall be deducted from or set off against his income of that class for the next year of assessment, and so on for subsequent years of assessment, and tax shall be discharged or repaid accordingly:

Provided that where the amount of the allowance is greater than the amount of the person's income of that class for the first-mentioned year of assessment, he may elect that the excess shall be deducted from or set off against his other income for that year of assessment, and it shall be deducted from or set off against that income and tax discharged or repaid accordingly, and only the excess, if any, of the amount of the allowance over all his income for that year of assessment shall be deducted from or set off against his income of the specified class for succeeding years.

An election under this proviso as respects an allowance for any year of assessment shall be made by giving notice in writing to the inspector not later than two years after the end of that year of assessment.

(2) An election under the proviso to subsection (1) above may be made for any year of assessment with respect to an allowance for the last preceding year of assessment, so far as not previously allowed, as if the allowance were or formed part of the allowance for the year for which the election is made; and in applying that subsection as extended by this provision to any allowances, relief shall be deemed to be given in respect of an allowance carried forward from an earlier year before it is given in respect of an allowance arising in a later year.

(3) Relief under this section shall be given on a claim made to the inspector under section 9 of the Income Tax Management Act 1964 c. 37.

Provided that an appeal under that section on the claim shall lie to the General Commissioners unless the appellant elects (in accordance with section 12(2) of the said Act of 1964) that it

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shall lie instead to the Special Commissioners so, however, that if an appeal to either body of Commissioners is pending against an assessment on the appellant which relates to the same source of income as that to which the claim relates, the appeal on the claim shall lie to that body of Commissioners.

Meaning of
"basis
period".

72.—(1) Except as otherwise expressly provided, in this Part of this Act as it applies for income tax purposes "basis period" has the meaning assigned to it by the following provisions of this section.

1952 c. 10.

(2) In the case of a person to or on whom an allowance or charge falls to be made in taxing his trade, his basis period for any year of assessment is the period on the profits or gains of which income tax for that year falls to be finally computed under Case I of Schedule D in respect of the trade in question or, where, by virtue of any provision of section 127 of the Income Tax Act 1952, the profits or gains of any other period are to be taken to be the profits or gains of the said period, that other period:

Provided that, in the case of any trade—

- (a) where two basis periods overlap, the period common to both shall be deemed for the purpose of this subsection to fall in the first basis period only,
- (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the second-mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period, and
- (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.

(3) Where an allowance falls to be made under Chapter II of this Part of this Act to a person carrying on a profession or vocation, subsection (2) of this section shall apply as if the references to a trade included references to a profession or vocation and as if the reference to Case I of Schedule D included a reference to Case II of Schedule D.

(4) In the case of any other person to or on whom an allowance or charge falls to be made under this Part of this Act, his basis period for any year of assessment is the year of assessment itself.

(5) Any reference in this section to the overlapping of two periods shall be construed as including a reference to the

coincidence of two periods or to the inclusion of one period in another, and references to the period common to both of two periods shall be construed accordingly.

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Corporation tax

73.—(1) In computing for the purposes of corporation tax a company's profits for any accounting period there shall be made all such deductions and additions as are required to give effect to the provisions of this Part of this Act which relate to allowances and charges in respect of capital expenditure; and subsection (2) of this section and the next following section have effect as respects allowances and charges which fall to be made under the provisions of this Part of this Act as they apply for the purposes of corporation tax.

Corporation
tax allowances
and charges in
taxing a trade.

(2) Allowances and charges which fall to be made for any accounting period in taxing a trade under the provisions of this Part of this Act as they apply for the purposes of corporation tax shall be given effect by treating the amount of any allowance as a trading expense of the trade in that period, and by treating the amount on which any such charge is to be made as a trading receipt of the trade in that period.

74.—(1) Where an allowance falls to be made to a company for any accounting period which is to be given by discharge or repayment of tax, and is to be available primarily against a specified class of income, it shall, as far as may be, be given effect by deducting the amount of the allowance from any income of the period, being income of the specified class.

Other
corporation
tax allowances.

(2) Where such an allowance which is to be made for any accounting period cannot be given full effect under subsection (1) above in that period by reason of a want or deficiency of income of the relevant class, then (so long as the company remains within the charge to tax) the amount unallowed shall be carried forward to the succeeding accounting period, except in so far as effect is given to it under subsection (3) below; and the amount so carried forward shall be treated for the purposes of subsection (1) of this section, and of any further application of this subsection, as the amount of a corresponding allowance for that period.

(3) Where such an allowance which is to be made for any accounting period (otherwise than by being carried forward from an earlier accounting period) cannot be given full effect under subsection (1) above in that period by reason of a want or deficiency of income of the relevant class, the company may claim that effect shall be given to the allowance against the profits (of whatever description) of that accounting period and, if the company was then within the charge to tax, of preceding

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accounting periods ending within the time specified in subsection (4) below; and, subject to that subsection and to any relief for earlier allowances or for losses, the profits of any of those accounting periods shall then be treated as reduced by the amount unallowed under subsection (1) above, or by so much of that amount as cannot be given effect under this subsection against profits of a later accounting period.

1965 c. 25.

(4) The time referred to in subsection (3) above is a time equal in length to the accounting period for which the allowance falls to be made; but the amount or aggregate amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not, with the amount of any reduction falling to be made therein under any corresponding provision of Part IV of the Finance Act 1965 relating to losses, exceed a part of those profits proportionate to the part of the period falling within that time.

(5) A claim under subsection (3) above shall be made within two years from the end of the accounting period first mentioned in that subsection.

General

Writing-down allowances under sections 61, 67 and 68.

75.—(1) This section has effect where it is provided under section 61, 67 or 68 of this Act that writing-down allowances shall be made in respect of any expenditure during a writing-down period of a specified length.

(2) There shall for any chargeable period wholly or partly comprised in the writing-down period be made an allowance equal to the appropriate fraction of the expenditure; and, subject to any provision to the contrary, the appropriate fraction is such fraction of the writing-down period as falls within the chargeable period:

Provided that the aggregate amount of the allowances made whether to the same or to different persons, together with the amount of any initial allowance, shall not exceed the amount of the expenditure.

(3) Where under paragraph 27(2) of Schedule 14 to the Finance Act 1965 allowances were made for accounting periods of a company falling wholly or partly within the year 1964-65 or 1965-66 in addition to allowances (for income tax purposes) made for either of those years, then in reckoning the period for which allowances are to be made, the periods for which allowances were so made shall be added together, notwithstanding that the same time is (according to the calendar) counted twice.

Companies not resident in United Kingdom.

76. Where a company not resident in the United Kingdom is within the charge to corporation tax in respect of one source of income and to income tax in respect of another source, then,

in applying the provisions of this Part of this Act, allowances related to any source of income shall be given effect against income chargeable to the same tax as is chargeable on income from that source.

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77.—(1) Any reference in this Part of this Act to the sale of any property includes a reference to the sale of that property together with any other property and, where property is sold together with other property, so much of the net proceeds of the sale of the whole property as, on a just apportionment, is properly attributable to the first-mentioned property shall, for the purposes of this Part of this Act, be deemed to be the net proceeds of the sale of the first-mentioned property, and references to expenditure incurred on the provision or the purchase of property shall be construed accordingly.

Apportionment of consideration, and exchanges and surrenders of leasehold interests.

For the purposes of this subsection, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for separate items of that property or that there are or purport to be separate sales of separate items of that property.

(2) The provisions of subsection (1) of this section shall, with the necessary adaptations, apply in relation to other sale, insurance, salvage or compensation moneys as they apply in relation to the net proceeds of sales.

(3) This Part of this Act shall have effect as if any reference therein (including any reference in the preceding provisions of this section) to the sale of any property included a reference to the exchange of any property and, in the case of a leasehold interest, also included a reference to the surrender thereof for valuable consideration, and any provisions of this Part of this Act referring to sales shall have effect accordingly with the necessary adaptations and, in particular, with the adaptations that references to the net proceeds of sale and to the price shall be taken to include references to the consideration for the exchange or surrender and references to capital sums included in the price shall be taken to include references to so much of the consideration as would have been a capital sum if it had taken the form of a money payment.

(4) The reference in subsection (1) above to expenditure incurred on the provision or the purchase of property shall—

- (a) in relation to section 53 of this Act, be deemed to include a reference to expenditure on the acquisition of, or of rights in or over, mineral deposits,
- (b) in relation to section 54 of this Act, be deemed to include a reference to expenditure on the acquisition of land,
- (c) in relation to section 60 of this Act, be deemed to include a reference to expenditure on the acquisition of a mineral asset.

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CHAPTER VI
Special provisions as to certain sales.

78.—(1) The provisions of Schedule 7 to this Act shall have effect in relation to sales of any property where either—

- (a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them, or
- (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of the said Schedule, might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under this Part or Part II of this Act.

(2) References in this section to a body of persons include references to a partnership.

(3) This section and the said Schedule shall not apply in relation to section 60 of this Act.

Successions to trades, etc.

79.—(1) Where a person succeeds to any trade, profession or vocation which until that time was carried on by another person and, by virtue—

1953 c. 34.

- (a) of section 19 of the Finance Act 1953 (changes in ownership of trade etc.), or

1965 c. 25.

- (b) of any provision of Part IV of the Finance Act 1965 other than paragraph 7 of Schedule 16 (overseas trade corporations),

the trade, profession or vocation is to be treated as discontinued, any property which, immediately before the succession takes place, was in use for the purposes of the discontinued trade, profession or vocation and, without being sold, is, immediately after the succession takes place, in use for the purposes of the new trade, profession or vocation, shall, for the purposes of this Part of this Act, be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of the sale had been the price which that property would have fetched if sold in the open market:

Provided that no initial allowance shall be made by virtue of the provisions of this subsection.

(2) Where, after the setting up and before the permanent discontinuance of a trade, profession or vocation which at any time is carried on in partnership, anything is done for the purposes thereof, any allowance or charge which, if the trade, profession or vocation had at all times been carried on by one and the same person, would have fallen to be made to or on

him under any of the provisions of this Part of this Act shall be made to or on the person or persons from time to time carrying on that trade, profession or vocation, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade, profession or vocation and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

(3) This section shall, with the necessary adaptations, apply in relation to the occupation of woodlands the profits or gains of which are assessable under Schedule D as it applies in relation to a trade.

(4) Subsection (1) above shall not apply as respects a succession before the appointed day, and in that subsection the reference to section 19 of the Finance Act 1953 includes a reference to section 145 of the Income Tax Act 1952. 1953 c. 34.
1952 c. 10

In this subsection "the appointed day" means 6th April 1946, but subject to section 16(2) and section 65(1) of this Act.

(5) This section shall not apply to allowances and charges under Chapter II of this Part of this Act.

80.—(1) Subsections (2) and (3) below shall have effect where Nationalisation schemes.
under—

(a) the Transport Act 1947, the Electricity Act 1947 or the Gas Act 1948, or any order or scheme made or issued under any of those Acts, or 1947 c. 49.
1947 c. 54.
1948 c. 67.

(b) subject to subsection (5) below, any other statutory provision 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,

property is transferred to a Commission, Authority, Board, body or person, and 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.

In paragraph (b) above "statutory provision" means a provision contained in, or in any order or scheme made or issued under, any Act.

(2) The transfer shall be treated for tax purposes as a sale of property to which section 78(1)(a) of this Act applies and as if the parties to the sale had given notice of election under paragraph 4 of Schedule 7 to this Act.

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(3) Where the trade of the transferor is permanently discontinued at the date of the transfer and either—

- (a) in the chargeable period in or at the end of which the transfer takes place a deduction could have been allowed in taxing the trade under section 70 or section 73 of this Act, but for an insufficiency of profits or gains against which to allow the deduction, or
- (b) in that and previous chargeable periods taken together, relief or greater relief could have been given by way of set-off under section 342 of the Income Tax Act 1952 or section 58(1) of the Finance Act 1965, or under either of those provisions as extended by any of the other provisions of the Income Tax Acts or the Corporation Tax Acts, but for the allowance in those chargeable periods of any such deductions as are mentioned in paragraph (a) above,

1952 c. 10.
1965 c. 25.

the deduction, so far as it could have been but was not allowed, or, as the case may be, the additional amount which could have been deducted and set off but for the deductions aforesaid, shall in taxing the trade of the transferee for the chargeable period in or at the beginning of which the transfer takes place and all subsequent chargeable periods, be added to and deemed to form part of the deduction falling to be allowed under section 70 or 73 of this Act in taxing the trade for the chargeable period in or at the beginning of which the transfer takes place.

1947 c. 49.

(4) In the preceding provisions of 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 or to the Central Electricity Generating Board, be construed as a reference to the Electricity Council.

1962 c. 46.

(5) In subsection (1)(b) above “statutory provision” shall not include the Transport Act 1962, and Schedule 8 to this Act (which contains transitory provisions as respects capital allowances) shall have effect as respects the National Coal Board and the Boards established by the Transport Act 1962.

Procedure on
apportion-
ments, etc.

81.—(1) Where, under or by virtue of any provisions of this Part of this Act, any sum falls to be apportioned and, at the time of the apportionment, it appears that it is material as respects the liability to tax (for whatever period) of two or more persons, any question which arises as to the manner in which the sum is to be apportioned shall be determined, for the purposes of the tax of all those persons—

- (a) in a case where the same body of General Commissioners have jurisdiction with respect to all those

persons, by those Commissioners, unless all those persons agree that it shall be determined by the Special Commissioners,

(b) in a case where different bodies of Commissioners have jurisdiction with respect to those persons, by such of those bodies as the Board may direct, unless all those persons agree that it shall be determined by the Special Commissioners, and

(c) in any other case, by the Special Commissioners,

and any such Commissioners shall determine the question in like manner as if it were an appeal against an assessment under Schedule D:

Provided that all the said persons shall be entitled to appear and be heard by the Commissioners who are to make the determination or to make representations to them in writing.

(2) This section applies in relation to any determination, under section 48 or section 79 of, or Schedule 7 to, this Act, of the price which property would have fetched if sold in the open market as it applies in relation to apportionments.

(3) This section shall come into force for all purposes on 6th April 1968, to the exclusion of section 329 of the Income Tax Act 1952 c. 10. Act 1952 (which is re-enacted in this section).

82.—(1) References in this Part of this Act to capital expenditure and capital sums—

Interpretation of certain references to expenditure, etc.

(a) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of tax, the profits or gains of a trade, profession, office, employment or vocation carried on or held by him, and

(b) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the profits or gains of any trade, profession, office, employment or vocation carried on or held by him,

and do not include, in relation to any such person as aforesaid, any expenditure or sum in the case of which a deduction of tax falls or may fall to be made under Chapter I of Part VII of the Income Tax Act 1952 (interest and other annual payments).

(2) Without prejudice to the provisions of section 98(2) of this Act, Chapter II of this Part of this Act has effect subject to section 15(1)(c) of the Finance Act 1965 (under which the use 1965 c. 25.

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of an asset for providing business entertainment is not to be treated as use for the purposes of a trade).

(3) Except as otherwise expressly provided, any reference in this Part of this Act to the date on which expenditure is incurred shall be construed as a reference to the date when the sums in question become payable.

Investment
grants:
exclusion
of initial
allowances.

83.—(1) No initial allowance under section 1, section 18 or section 56 of this Act shall be made in respect of so much of any expenditure as is taken into account for the purposes of any investment grant made towards that expenditure, or be made by virtue of section 85 of this Act in respect of a proportionate part of any contribution towards that expenditure.

(2) If any such grant is made after the making of any such allowance, that allowance shall to that extent be withdrawn; and where the amount of any investment grant towards any expenditure is repaid in whole or in part by the grantee to the grantor, then to the extent to which it has been so repaid it shall be deemed never to have been made.

(3) All such assessments or adjustments of assessments to income tax or corporation tax shall be made as may be necessary in consequence of the last preceding subsection and, notwithstanding anything in any other provision, the time within which such an assessment or adjustment may be made shall not expire before the expiration of three years from the end of the chargeable period in which the investment grant, or, as the case may be, the repayment referred to in that subsection, was made.

(4) In this section “investment grant” means a grant towards capital expenditure incurred by a person carrying on a business, being—

1966 c. 34.
1967 c. 22

(a) a grant made under the Industrial Development Act 1966 or the Agriculture Act 1967 or in pursuance of a scheme under an enactment amended by either of those Acts, or

(b) a grant made under an enactment of the Parliament of Northern Ireland or out of moneys provided by that Parliament which appears to the Treasury to be made towards expenditure and for a purpose corresponding respectively to expenditure towards which and a purpose for which a grant such as is mentioned in paragraph (a) above may be made,

and being (whether under paragraph (a) or (b) above) a grant declared by the Treasury by order made by statutory instrument to be relevant for the purposes of the withholding or withdrawal of investment and initial allowances.

(5) So much of subsection (4) above as authorises the Treasury to make orders shall come into force for all purposes on 6th April 1968 to the exclusion of so much of section 35(3) of the Finance Act 1966 as authorises the Treasury to make orders, and accordingly—

- (a) any order made by the Treasury before that date under the said section 35(3) shall be treated from that date as if it were an order under subsection (4) above, and
- (b) the reference in the said section 35(3) (as it applies in relation to chargeable periods ending before 6th April 1968) to an order made by the Treasury under that subsection shall include a reference to an order made by the Treasury under subsection (4) above.

84.—(1) Expenditure shall not be regarded for any of the purposes of this Part of this Act as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the Crown or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the first-mentioned person. Subsidies. etc.

(2) In considering, for the purposes of this section, how far any expenditure has been or is to be met directly or indirectly by the Crown or by any authority or person other than the person incurring the expenditure, there shall be left out of account—

- (a) any insurance moneys or other compensation moneys payable in respect of any asset which has been demolished, destroyed or put out of use, and
 - (b) any expenditure met or to be met by any person other than the Crown or a government or public or local authority, being expenditure in respect of which, apart from the provisions of this paragraph, no allowance could be made under the provisions of the next following section.
- (3) This section shall not apply—
- (a) in considering whether any, and if so what, writing-down allowance or balancing charge is to be made to or on a person under Chapter II in respect of any machinery or plant provided before the appointed day (as defined in Chapter II),
 - (b) in considering what deduction may be made under section 40(2) of this Act in respect of expenditure on the replacement of machinery or plant provided before that day,
 - (c) for the purposes of Chapter IV.

PART I
CHAPTER VI
Allowances
in respect of
contributions
to capital
expenditure.

85.—(1) Where a person, for the purposes of a trade carried on or to be carried on by him or by a tenant of land in which he has an interest, contributes a capital sum to expenditure on the provision of an asset, being expenditure which, apart from the provisions of the last preceding section, would have been regarded as wholly incurred by another person and in respect of which, apart from the last preceding section—

(a) an allowance would have been made under Chapter I, or

(b) an initial allowance or a writing-down allowance would have been made under Chapter II, or

(c) an allowance would have been made under any provision of Chapter III, other than section 60, or

(d) an allowance would have been made under Chapter V, then, subject to the provisions of Schedule 9 to this Act and to the following provisions of this section, such initial and writing-down allowances, if any, shall be made to the contributor as would have been made to him if his contribution had been expenditure on the provision, for the purposes of that trade, of a similar asset.

(2) For the purpose of initial allowances given by virtue of subsection (1) above, section 18(1)(b) of this Act shall, subject to the provisions of Schedule 3 to this Act, apply as if the relevant asset belonged to the person making the contribution at any time when the machinery or plant belongs, or is treated under section 18(7) of this Act as belonging, to the person for the time being carrying on the trade for the purposes of which the machinery or plant is provided.

(3) Where a sewerage authority in the United Kingdom incurs expenditure on the provision of an asset to be used in the treatment of trade effluents, then, in relation to any contribution of a capital sum made to that expenditure, this section shall apply as if such allowances fell to be made to the sewerage authority in respect of the expenditure as, apart from the last preceding section, would fall to be made if the asset were to be so used for the purposes of a trade carried on by the sewerage authority.

In this subsection—

“sewerage authority” means a public body having power under any enactment relating to the public health to construct and maintain sewers,

“trade effluents” means liquid or other matter discharged into public sewers from premises occupied for the purposes of a trade,

and this subsection shall apply only where the contribution was made, and the expenditure in question was incurred, after 31st May 1963.

(4) In subsection (1) of this section, and in Schedule 9 to this Act, "trade" includes the occupation of woodlands in the United Kingdom in respect of which the assessment and charge to tax falls to be made under Schedule D by virtue of section 125 of the Income Tax Act 1952.

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1952 c. 10.

(5) This section shall not apply to any contribution made before the appointed day.

In this subsection "the appointed day" means 6th April 1946, but subject to section 16(2) and section 65(1) of this Act.

86.—(1) Subject to subsection (2) below, in this Part of this Act, except where the context otherwise requires, "sale, insurance, salvage or compensation moneys" means, in relation to an event which gives rise or might give rise to a balancing allowance or a balancing charge to or on any person, or is material in determining whether any, and if so what, writing-down allowance is to be made to a person under Chapter III of this Part of this Act—

Meaning of "sale, insurance, salvage or compensation moneys".

- (a) where the event is a sale of any property, the net proceeds to that person of the sale ;
- (b) where the event is the coming to an end of an interest in property on or by reason of the coming to an end of a foreign concession, any compensation payable to that person in respect of that property ;
- (c) where the event is the demolition or destruction of any property, the net amount received by him for the remains of the property, together with any insurance moneys received by him in respect of the demolition or destruction and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums ;
- (d) as respects machinery or plant, where the event is the permanent loss thereof otherwise than in consequence of its demolition or destruction, any insurance moneys received by him in respect of the loss and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums ;
- (e) where the event is that a building or structure ceases altogether to be used, any compensation of any description received by him in respect of that event, in so far as that compensation consists of capital sums.

(2) So far as this section has effect for purposes other than those of Chapter II of this Part of this Act, subsection (1) above shall have effect as if—

- (a) paragraph (d) were omitted, and

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(b) paragraph (e) applied where machinery or plant is put out of use as it applies where a building or structure ceases altogether to be used.

Other provisions as to interpretation of Part I.

87.—(1) In this Part of this Act, except where the context otherwise requires—

“the Board” means the Commissioners of Inland Revenue ;

“chargeable period” means an accounting period of a company or a year of assessment ; and

(a) a reference to a “chargeable period or its basis period” is a reference to the chargeable period if it is an accounting period and to the basis period for it if it is a year of assessment,

(b) a reference to a “chargeable period related to” the incurring of expenditure, or a sale or other event, is a reference to the chargeable period in which, or to that in the basis period for which, the expenditure is incurred or the sale or other event takes place, and means the latter if, but only if, the chargeable period is a year of assessment ;

“company” has the same meaning as in Part IV of the Finance Act 1965 ;

1965 c. 25.

“control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership ;

“foreign concession” means a right or privilege granted by the government of, or any municipality or other authority in, any territory outside the United Kingdom ;

“income” includes any amount on which a charge to tax is authorised to be made under any of the provisions of this Part of this Act ;

“lease” includes an agreement for a lease where the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and “lessee”, “lessor” and “leasehold interest” shall be construed accordingly ;

- “ mineral deposits ” includes any natural deposits capable of being lifted or extracted from the earth ;
- “ scientific research allowance ” means an allowance made under Part II of this Act, other than an allowance under section 90 ;
- “ tax ”, where neither corporation tax nor income tax is specified, means either of those taxes ;
- “ writing-down allowance ”, where the reference is partly to years of assessment before the year 1966-67, includes an annual allowance in the sense which in the context that phrase had immediately before the commencement of the Finance Act 1965,

1965 c. 25

and for the purposes of this Part of this Act a source of income is “ within the charge to ” corporation tax or income tax if that tax is chargeable on the income arising from it, or would be so chargeable if there were any such income, and references to a person, or to income, being within the charge to tax shall be similarly construed.

(2) In this Part of this Act a reference to allowances or charges being made in taxing a trade is a reference to their being made in computing the trading income for corporation tax or in charging the profits or gains of the trade to income tax.

(3) Any reference in this Part of this Act to an allowance made or deduction allowed includes a reference to an allowance or deduction which would be made or allowed but for an insufficiency of profits or gains, or other income, against which to make it:

Provided that this subsection shall not apply to the references in section 40(2) of this Act to writing-down allowances, exceptional depreciation allowances and scientific research allowances.

(4) Any reference in this Part of this Act to any building, structure, machinery, plant, works, asset, farmhouse, farm or forestry building, cottage or fence shall be construed as including a reference to a part of any building, structure, machinery, plant, works, asset, farmhouse, farm or forestry building, cottage or fence:

Provided that where the reference is expressed to be to the whole of a building or structure, this subsection shall not apply.

(5) The provisions of Chapter II of this Part of this Act, and the provisions of this Chapter so far as it applies for the purposes of the said Chapter II, shall apply in relation to a share in machinery or plant as they apply in relation to a part of machinery or plant, and for the purposes of the said provisions a share in machinery or plant shall be deemed to be used for the purposes of a trade, profession or vocation so

PART I long as, and only so long as, the machinery or plant is used
CHAPTER VI for the purposes thereof.

This subsection shall, with any necessary adaptations, apply in relation to the occupation of woodlands where the profits or gains thereof are assessable under Schedule D as they apply in relation to trades.

(6) Any reference in this Part of this Act to the time of any sale shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

(7) Any reference in this Part of this Act to the setting up or permanent discontinuance of a trade includes, except where the contrary is expressly provided, a reference to the occurring of any event which, under any of the provisions of the Income Tax Acts or the Corporation Tax Acts, is to be treated as equivalent to the setting up or permanent discontinuance of a trade:

1965 c. 25. Provided that the reference above to the Corporation Tax Acts shall not include a reference to paragraph 7 of Schedule 16 to the Finance Act 1965 (overseas trade corporations).

1957 c. 49. (8) In the application of this Part of this Act in relation to assets which have been used for the purposes of a trade carried on by a company which, at any time when the assets were so used, was for the purposes of Part IV of the Finance Act 1957 an Overseas Trade Corporation, there shall be deducted from expenditure to which this Part of this Act applies all such amounts as would have been deducted if, throughout the period when the company was an Overseas Trade Corporation, the said Part IV had not had effect and allowances and balancing charges had been made accordingly:

Provided that, where there was an interval between the end of the last basis period related to a year of assessment falling before the date when the company ceased to be an Overseas Trade Corporation and that date, the interval shall be deemed for the purposes of this subsection to have been part of that basis period.

(9) In connection with the transition for companies from income tax to corporation tax effected by the Finance Act 1965 the provisions of this Act and any other provision of the Income Tax Acts relevant thereto shall have effect with such modifications as are necessary to preserve the continuity of the system of allowances and charges under this Part of this Act, and so that in particular references to a previous chargeable period or to a subsequent chargeable period, or to a time before, or a time after, a chargeable period, shall have effect in relation to a company as if the year 1965-66 or any earlier

year of assessment preceded that company's first accounting period for corporation tax.

This subsection shall not be taken to require any time to be counted twice in reckoning duration.

88. In the application of this Part of this Act to Scotland, "leasehold interest" means the interest of a tenant in property subject to a lease; and any reference to an interest which is reversionary on a leasehold interest or on a lease shall be construed as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.

Application of Part I to Scotland.

89.—(1) In this Part of this Act, "exceptional depreciation allowance" means an allowance made under section 19 of the Finance Act 1941 and "mills, factories or exceptional depreciation allowances" means any allowance made under section 15 of the Finance Act 1937 or any exceptional depreciation allowances.

Transitory provisions: mills, factories and exceptional depreciation allowances. 1941 c. 30. 1937 c. 54.

(2) Any reference in this Part of this Act to the relevant exceptional depreciation allowances shall be construed, in relation to any building, machinery or plant, as a reference to an exceptional depreciation allowance in respect of that building, machinery or plant, or to so much of any exceptional depreciation allowance granted in respect of any building, machinery or plant of which it forms part as is properly attributable to it.

(3) Any reference in this Part of this Act to the relevant mills, factories or exceptional depreciation allowances shall be construed, in relation to any building or structure, as a reference to any allowances granted under section 15 of the Finance Act 1937 in respect of it or premises of which it forms part, and any relevant exceptional depreciation allowances:

Provided that where an allowance under the said section 15 was in respect of premises which include several buildings or structures, the whole amount of the allowance under the said section 15 shall be apportioned between all the buildings or structures, and only that part of the allowance which is apportioned to the building or structure in question shall be taken into account.

(4) Any reference in this Part of this Act to the allowance made under the said section 15 for any year of assessment shall be construed as a reference to an amount which, under the said section 15, was to be allowed as a deduction in computing profits or gains for that year of assessment.

PART II

SCIENTIFIC RESEARCH

Allowances for expenditure on scientific research not of a capital nature, and on payments to research associations, universities, etc.
1952 c. 10.

90. Notwithstanding anything in section 137 of the Income Tax Act 1952 (general rules as to deductions not allowable in computing the profits or gains of a trade), where a person carrying on a trade—

- (a) incurs expenditure not of a capital nature on scientific research related to that trade and directly undertaken by him or on his behalf, or
- (b) pays any sum to any scientific research association for the time being approved for the purposes of this section by the Secretary of State or the Minister of Technology, being an association which has as its object the undertaking of scientific research related to the class of trade to which the trade he is carrying on belongs, or
- (c) pays any sum to be used for such scientific research as is mentioned in paragraph (b) above to any such university, college research institute or other similar institution as is for the time being approved for the purposes of this section by the Secretary of State or the Minister of Technology,

the expenditure incurred or sum paid, as the case may be, may be deducted as an expense in computing the profits or gains of the trade for the purposes of tax.

Allowances for capital expenditure on scientific research.

91.—(1) Subject to the provisions of this and the next following section, where a person—

- (a) while carrying on a trade, incurs expenditure of a capital nature on scientific research related to that trade and directly undertaken by him or on his behalf, or
- (b) incurs expenditure of a capital nature on scientific research directly undertaken by him or on his behalf, and thereafter sets up and commences a trade connected with that research,

a deduction equal to the whole of the expenditure shall be allowed in taxing the trade for the relevant chargeable period as defined in the following provisions of this section.

(2) For corporation tax purposes the relevant chargeable period shall be the accounting period in which the expenditure was incurred or, if it was incurred before the setting up and commencement of the trade, the accounting period beginning with that setting up and commencement.

(3) For income tax purposes the relevant chargeable period shall be—

- (a) in the case of expenditure incurred before the end of the year of assessment in which the trade was set up and commenced, that year of assessment,
- (b) in the case of expenditure incurred after the end of that year of assessment but not later than twelve months from the setting up and commencement of the trade, the year of assessment next following that in which the trade was set up and commenced,
- (c) in the case of expenditure incurred after twelve months from the setting up and commencement of the trade and during the basis year for any year of assessment, but subject to subsection (4) below, that year of assessment,
- (d) in the case of expenditure incurred during the year of assessment in which the trade is permanently discontinued, that year of assessment.

In paragraph (c) above “basis year” means, in relation to a year of assessment, the period the profits or gains of which are, under section 127 of the Income Tax Act 1952, to be taken to be the profits or gains of the year preceding that year of assessment. 1952 c. 10.

(4) For the purposes of the said paragraph (c)—

- (a) where two basis years overlap, any expenditure incurred in the period common to both shall be deemed to have been incurred in the first basis year only,
- (b) where there is an interval between the end of the basis year for one year of assessment and the beginning of the basis year for the next year of assessment, any expenditure incurred during the interval shall be deemed to have been incurred in the second basis year, and
- (c) any expenditure which is incurred before the end of, but after the end of the basis year for, the last complete year of assessment before the permanent discontinuance of the trade shall be deemed to have been incurred in that basis year,

and, in paragraph (a) of this subsection, the reference to the overlapping of two basis years includes a reference to the coincidence of two basis years, or to the inclusion of one basis year in another, and the reference to the period common to both of two basis years shall be construed accordingly.

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(5) This section shall not apply to expenditure incurred before 6th November 1962, but deductions in respect of such expenditure shall be allowed instead in accordance with the transitory provisions contained in Schedule 10 to this Act.

Termination of user of assets provided for scientific research.

92.—(1) Subject to subsection (6) below, the two next following subsections shall have effect where an asset representing scientific research expenditure of a capital nature incurred by the person carrying on a trade ceases to be used by that person for scientific research related to that trade and is then or thereafter sold by him.

(2) If the sale occurs in or after the chargeable period for which an allowance in respect of the expenditure is made under the last preceding section, then, subject to subsection (5) below—

(a) the sum by which the aggregate of the proceeds of sale and the amount of the allowance exceeds the amount of the expenditure, or

(b) the amount of the allowance if it is less than that sum, shall be treated as a trading receipt of the trade accruing at the time of the sale or, if the sale occurs on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance.

(3) If the sale occurs before the chargeable period for which an allowance in respect of the expenditure would fall to be so made, that allowance shall not be made, but, subject to subsection (5) below, if the proceeds of sale are less than the expenditure a deduction equal to the difference shall be allowed in taxing the trade for the chargeable period in which the sale occurs.

(4) Where an asset is destroyed, it shall for the purposes of this section be treated as if it had been sold immediately before its destruction, and any insurance moneys or other compensation of any description received by the person carrying on the trade in respect of the destruction, and any moneys received by him for the remains of the asset, shall be treated as if they were proceeds of that sale; and, where this subsection has effect on the demolition of an asset—

(a) the cost of the demolition to the person carrying on the trade shall, for the purposes of subsections (2) and (3) above, be added to the expenditure represented by the asset, and

(b) if the case falls within the first of those subsections but, by reason of that addition, the aggregate there referred

PART II

to is less than the amount of the expenditure represented by the asset, then, unless the asset was used for other purposes after it ceased to be used for scientific research related to the trade, and subject to subsection (5) below, a deduction equal to the difference shall be allowed in taxing the trade for the chargeable period in which the asset is treated as having been sold or, if it is treated as having been sold on or after the date on which the trade is permanently discontinued, for the last chargeable period in which the trade was carried on before the discontinuance.

(5) No amount shall be allowed or charged by virtue of this section in respect of any sale if the sale gives rise to a balancing allowance or balancing charge under Chapter I or Chapter II of Part I of this Act.

(6) This section shall not apply as respects assets representing expenditure incurred before 6th November 1962, but the transitory provisions contained in Schedule 10 to this Act shall have effect instead.

93.—(1) No initial allowances under Chapter I or Chapter II of Part I of this Act shall be made in respect of expenditure on the provision of an asset if that expenditure is expenditure in respect of which a deduction may be allowed under section 91 above or the corresponding provisions of Schedule 10 to this Act. Prevention of double allowances.

(2) Where a deduction is allowed for any chargeable period under section 91 or 92 above, or the corresponding provisions of Schedule 10 to this Act, in respect of expenditure represented wholly or partly by any assets, there shall not be made or allowed—

- (a) any writing-down allowance under Chapter I of Part I of this Act, or
- (b) except under this Part of this Act, any allowance or deduction in respect of wear and tear, obsolescence or depreciation of those assets,

for any chargeable period during any part of which they are used by the person carrying on a trade for scientific research related to that trade.

(3) The cost to a person of the demolition of any property shall not, if section 92(4)(a) above or paragraph 2(4) of Schedule 10 to this Act applies to it, be treated for the purposes of this Act as expenditure incurred in respect of any other property by which that property is replaced.

PART II
Interpretation
of Part II.

94.—(1) In this Part of this Act—

“scientific research” means any activities in the fields of natural or applied science for the extension of knowledge ;

“scientific research expenditure” means expenditure incurred on scientific research ;

references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, subject to that, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research ;

references to scientific research related to a trade or a class of trades include—

(a) any scientific research which may lead to or facilitate an extension of that trade or, as the case may be, of trades of that class ;

(b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that trade or, as the case may be, trades of that class ;

“asset” includes part of an asset.

(2) In this Part of this Act, unless the context otherwise requires—

“the Board” means the Commissioners of Inland Revenue ;

“chargeable period” means an accounting period of a company or a year of assessment ;

“company” has the same meaning as in Part IV of the Finance Act 1965 ;

“tax”, where neither corporation tax nor income tax is specified, means either of those taxes ;

“writing-down allowance”, where the reference is partly to years of assessment before the year 1966-67, includes an annual allowance in the sense which in the context that phrase had immediately before the commencement of the Finance Act 1965.

(3) In this Part of this Act a reference to allowances being made in taxing a trade is a reference to their being made in computing the trading income for corporation tax or in charging the profits or gains of the trade to income tax.

(4) References in this Part of this Act to the setting up and commencement of a trade and to the permanent discontinuance of a trade include references to the occurring of any event which, under any of the provisions of the Income Tax Acts or the Corporation Tax Acts, is to be treated as equivalent to the

1965 c. 25.

setting up and commencement of a trade or, as the case may be, to the permanent discontinuance thereof: PART II

Provided that the reference above to the Corporation Tax Acts shall not include a reference to paragraph 7 of Schedule 16 to the Finance Act 1965 (overseas trade corporations). 1965 c. 25.

(5) Any reference in this Part of this Act to the time of any sale shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

95.—(1) Deductions allowable in taxing a trade under the provisions of this Part of this Act as they apply for the purposes of income tax shall be given effect in accordance with subsections (2) and (4) of section 70 of this Act, and deductions so allowable under those provisions as they apply for the purposes of corporation tax shall be given effect in accordance with section 73 of this Act. Supplemental.

(2) Section 77 of this Act shall have effect in relation to section 92 above and the corresponding provisions of Schedule 10 to this Act as if that section and those provisions were contained in Part I of this Act.

(3) Sections 91 and 92 above, and the corresponding provision of Schedule 10 to this Act, shall have effect subject to the provisions of section 78 of, and Schedule 7 to, this Act.

(4) In section 80 of this Act references to sections 70, 73 and 78 of this Act, and to Schedule 7 to this Act, are references to those provisions as extended by this section, and this Part of this Act has effect subject to Schedule 8 to this Act.

(5) Subsections (8) and (9) of section 87 of this Act shall apply for the purposes of this Part of this Act as they apply for the purposes of Part I of this Act, but as if, in the proviso to the said subsection (8), references to a basis period were references to a basis year.

(6) For the purposes of this Part of this Act, expenditure shall not be regarded as incurred by a person in so far as it is, or is to be, met directly or indirectly by the Crown or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the first-mentioned person.

(7) The same expenditure shall not be taken into account for any of the purposes of this Part of this Act in relation to more than one trade.

(8) If any question arises under this Part of this Act as to whether, and if so to what extent, any activities constitute or constituted, or any asset is or was being used for, scientific

PART II

research, the Board shall refer the question for decision to the Secretary of State or the Minister of Technology, as may be appropriate in relation to the activities in question, and his decision shall be final.

PART III

GENERAL

Commence-
ment and
repeals.

96.—(1) Except as otherwise provided by Part I of this Act, Parts I and II of this Act shall come into force and have effect as respects allowances and charges falling to be made for chargeable periods ending after 5th April 1968.

(2) The provisions of this Act applied by subsection (1) above include those under which effect may be given to allowances falling to be made for a chargeable period by setting any part of them against the profits or gains of some other chargeable period, and subsection (1) above shall apply to allowances falling to be made for the chargeable periods there mentioned notwithstanding that, under any such provision of this Act, or under any other provision of the Income Tax Acts or the Corporation Tax Acts, effect is to be given to those allowances by setting any part of them off against the profits or gains of a chargeable period ending before 6th April 1968.

(3) The enactments mentioned in Schedule 11 to this Act shall be repealed to the extent specified in the third column of that Schedule, and the provisions of this Act brought into force by subsection (1) above shall have effect to the exclusion of the corresponding provisions so repealed, and those repeals shall take effect accordingly.

(4) The said repeals shall not affect any enactment so far as it authorises effect to be given to an allowance falling to be made for a chargeable period ending before 6th April 1968 by setting any part of it against profits or gains of a chargeable period ending after 5th April 1968, and subsection (1) above shall not be read as referring to any such allowance.

Continuity.

97.—(1) The continuity of the operation of the Income Tax Acts and the Corporation Tax Acts shall not be affected by the substitution of this Act for the repealed enactments.

(2) Any reference, whether express or implied, in this Act to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in

the repealed enactments has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

(3) The repeals made by this Part of this Act shall not affect any instrument made or other thing done under the repealed enactments and, so far as any such instrument or other thing could have affected the allowances, deductions and charges as respects which this Act has effect if this Act had not passed, this Act shall have effect as if the instrument or other thing had been made or done under the corresponding provisions of this Act.

(4) Subsection (3) above applies in particular to any election, to any appointment, to any claim for an allowance, and to any proceedings on any such claim.

(5) Without prejudice to the said subsection (3), the repeals made by this Part of this Act in Schedule 2 to the Science and Technology Act 1965 shall not affect that Schedule so far as it provides for approvals given under section 335(b) or (c) of the Income Tax Act 1952 before its coming into force as respects that section to be treated as given by the Secretary of State or the Minister of Technology.

1965 c. 4.

1952 c. 10.

(6) In this and the next following section "the repealed enactments" means the enactments repealed by Schedule 11 to this Act, and such of the enactments repealed by the Income Tax Act 1952 as correspond to the provisions of that Act so repealed.

98.—(1) Any reference, whether express or implied, in any enactment, instrument or document passed or made before or in the same Session as this Act to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or deemed to be done or falling to be done under or for the purposes of, that corresponding provision.

Construction of existing Acts and documents.

(2) For the avoidance of doubt it is hereby declared that Parts I and II of this Act have effect subject to those provisions of the Income Tax Acts and the Corporation Tax Acts which are not repealed by this Act, and, with a view to preserving the existing effect of such of those enactments as are mentioned in Schedule 12 to this Act, they shall be amended in accordance with that Schedule.

(3) The provisions of this Part of this Act are without prejudice to the provisions of the Interpretation Act 1889 as respects the effect of repeals.

1889 c. 63.

PART III
Construction
of future
enactments.

99.—(1) Except as otherwise expressly provided or where the context otherwise requires, section 97 of this Act shall apply for the purpose of construing any provision contained in an Act passed after this Act, or in an instrument made after the passing of this Act under any Act, past or future, which refers to a provision of this Act, as it applies for the purposes of construing this Act.

(2) This subsection has effect in applying for corporation tax any Act passed after this Act.

For the purposes of corporation tax, the right to an allowance or liability to a charge under this Act for an accounting period, and the rate or amount of any such allowance or charge, shall be determined by applying the law in force for the year of assessment in which the accounting period ends.

Short title
and
construction.

100.—(1) This Act may be cited as the Capital Allowances Act 1968.

1965 c. 25.

(2) Except in so far as this Act otherwise provides, its provisions shall apply equally for purposes of income tax and for purposes of corporation tax; and section 63(5) of the Finance Act 1965 (which relates to the construction of income tax provisions applying both to income tax and corporation tax) shall apply to this Act as it applies to any such provisions of the Income Tax Acts.

(3) This Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts and, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts.

(4) 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 or applied by or under any other enactment including this Act.

SCHEDULES

SCHEDULE 1

INITIAL ALLOWANCES: TRANSITORY

Sections 1(2),
18(2), 56(2) and
67(1).

1.—(1) This paragraph has effect as regards the relationship between initial allowances and investment allowances (that is the investment allowances under the provisions repealed by section 35 of the Finance Act 1966 except as regards expenditure incurred before 17th January 1966 and certain expenditure under contracts before that date). 1966 c. 18.

(2) If any such investment allowance falls to be made in respect of any expenditure, this Act shall apply to that expenditure with the following modifications—

- (a) in section 1(2), for the words “three-twentieths” there shall be substituted the words “one-twentieth”,
- (b) in section 18(2), for the words “three-tenths” there shall be substituted the words “one-tenth”,
- (c) in section 56(2), for the words “two-fifths” there shall be substituted the words “one-fifth”,
- (d) in section 67(1)(a), for the words “three-twentieths” there shall be substituted the words “one-twentieth”.

(3) Where an investment allowance in respect of any expenditure is withheld or withdrawn under paragraph 1 of Schedule 2 to the Finance Act 1954 then— 1954 c. 44.

- (a) if it is withheld or withdrawn by reason of a sale or transfer such initial allowance (if any) as might have been made in addition to the investment allowance if it had not been withheld or withdrawn shall be made, or
- (b) if it is withheld or withdrawn otherwise than by reason of a sale or transfer such initial allowance (if any) as might have been made in respect of the said expenditure but for sub-paragraph (2) above shall be made.

(4) In the case of an initial allowance under section 67(1)(a) of this Act, sub-paragraph (3) above shall not apply, but if an investment allowance in respect of any expenditure is withheld or withdrawn otherwise than by reason of a sale of the trade deemed for the purposes of the said section 67 to constitute the permanent discontinuance thereof such initial allowance as might have been made in respect of the said expenditure but for sub-paragraph (2) above shall be made.

(5) Subject to sub-paragraphs (3) and (4) above, where an investment allowance falls to be made in addition to an initial allowance, no greater initial allowance shall be made by reason that the investment allowance is for any reason not made.

Machinery and plant

2.—(1) Where an investment allowance is made or falls to be made in respect of expenditure on machinery or plant, and the machinery

SCH. 1 or plant is sold by the person incurring the expenditure or an associate of his, then if either—

(a) the buyer is an associate of the person incurring the expenditure, or

(b) it appears with respect to the sale either—

(i) that it is one in contemplation of which the expenditure was incurred, or

(ii) that the sole or main benefit which, apart from this paragraph, might have been expected to accrue to the parties or any of them would have been or have derived from the allowances (whether investment allowances or initial allowances) obtained or to be obtained in respect of the machinery or plant sold or any machinery or plant by which it is or is to be replaced ;

1954 c. 44.

the amount of the initial allowance (if any) to which the buyer is entitled shall be reduced by two-thirds, unless the investment allowance is withheld or withdrawn under paragraph 1 of Schedule 2 to the Finance Act 1954 or the initial allowance is reduced in accordance with the provisions of Schedule 7 to this Act.

(2) For the purposes of this paragraph machinery or plant shall be deemed to be sold, or as the case may be bought, by an associate of the person incurring the expenditure—

(a) if it is sold, or as the case may be bought, by a body of persons which is at the time of the sale under the control of the person incurring the expenditure, or

(b) if the expenditure was incurred by a body of persons which either is at the time of the sale or was when the expenditure was incurred under the control of the seller, or as the case may be the buyer, or

(c) if the expenditure was incurred by one body of persons and the machinery or plant is sold, or as the case may be bought, by another, and the seller, or as the case may be the buyer, is at the time of the sale under the control of the same person as the body incurring the expenditure either is at that time or was when the expenditure was incurred,

or if it is sold by a person to whom the machinery or plant was transferred by the person incurring the expenditure or an associate of his and it appears that the transfer was made in contemplation of the sale.

In this sub-paragraph “ body of persons ” includes a partnership.

Ships

3.—(1) Where an investment allowance falls to be made in respect of any expenditure incurred on the provision of a ship, no initial allowance shall be made in respect of that expenditure, and paragraph 1 above shall not apply.

(2) Where an investment allowance in respect of any expenditure incurred on the provision of a ship is withheld or withdrawn under paragraph 1 of Schedule 2 to the Finance Act 1954 otherwise than

by reason of a sale or transfer, such initial allowance (if any) as might have been made in respect of that expenditure but for subparagraph (1) above shall be made.

SCH. 1

(3) In the case of expenditure incurred on the provision of a ship paragraph 2(1) above shall apply as if for the words following subparagraphs (a) and (b) in the said paragraph 2(1) there were substituted the words—

“ the buyer shall not be entitled to an initial allowance, unless the investment allowance is withheld or withdrawn under paragraph 1 of Schedule 2 to the Finance Act 1954 ”.

(4) Subject to subparagraph (2) above, where an investment allowance falls to be made in respect of expenditure incurred on the provision of a ship, no initial allowance shall be made in respect of that expenditure notwithstanding that the investment allowance is for any reason not made.

Supplemental

4.—(1) All such assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the substitution for an investment allowance of an initial allowance under the preceding provisions of this Schedule, and may be so made at any time.

(2) In the case of the death of a person who, if he had not died, would, under the preceding provisions of this Schedule, have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.

Expenditure incurred before 8th April 1959

5.—(1) This paragraph has effect as respects expenditure incurred before 8th April 1959 (that is to say expenditure incurred before the coming into force of the rates of allowance prescribed by section 21 of the Finance Act 1959 and in respect of which an initial allowance would only fall to be made under this Act where section 1(4) proviso applies or where, under section 1(6), section 18(4) or section 64, expenditure incurred before 8th April 1959 is to be treated as having been incurred at a later time).

(2) In the case of such expenditure the rate of any initial allowance under this Act shall be such as would have applied if this Act had not passed, and neither the rates substituted by paragraph 1(2) above nor the rates for which they are substituted shall apply.

SCHEDULE 2

MOTOR CARS

Preliminary

1.—(1) Except as otherwise provided in paragraphs 9 and 10 below, the descriptions of vehicles to which this Schedule applies are those to which section 32 of this Act applies.

(2) Paragraphs 2 to 7 of this Schedule have effect as respects initial allowances, writing-down allowances and balancing allowances in

Sections 18(3),
19(3) and 32(3).

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respect of expenditure incurred on the provision of a vehicle to which this Schedule applies, not being—

- (a) expenditure incurred before 17th April 1961, nor
- (b) expenditure incurred under a contract entered into before that day where either the expenditure was incurred within twelve months after that day or the contract was one of hire-purchase or for purchase by instalments,

and references in paragraphs 8 and 9 of this Schedule to expenditure incurred on the provision or hiring of a vehicle do not include references to expenditure within paragraph (a) or paragraph (b) above.

Initial allowances : transitory provisions

2. Where an initial allowance is not precluded by section 18(3) of this Act, the amount to be allowed by way of initial allowance for any one vehicle shall not exceed £600 (whether the allowance falls to be made by reference to lump sum expenditure or by reference to the amounts of instalments), and the references in paragraph 3(2) of Schedule 7 to this Act to the appropriate fraction of the limit of recharge on the seller shall have effect accordingly as references to the limit of recharge reduced by £600.

Writing-down allowances : previous user which has not attracted allowances

3.—(1) Section 30 of this Act shall have effect as if at the end of subsection (1) thereof there were added “and in any case where the machinery or plant was not in fact used for the purposes of the trade in the first of those previous chargeable periods (whether or not the trade was then being carried on) there shall be deemed to have been made to him for that chargeable period the maximum allowances permitted by subsections (1) and (2) of section 32 of this Act”.

(2) The reference in sub-paragraph (1) above to the maximum allowances permitted by subsections (1) and (2) of section 32 of this Act includes (where the initial allowance would not have been precluded by section 18(3) of this Act) a reference to the maximum allowances permitted by paragraph 2 above.

Restriction of balancing allowances

4. Where apart from this paragraph a balancing allowance would fall to be made in respect of any vehicle, and the event giving rise to the allowance takes place within a chargeable period or its basis period, being a chargeable period as respects which subsections (1) and (2) of section 32 of this Act, or paragraph 3 above, would operate to reduce the amount of any writing-down allowance falling to be made in respect of the vehicle, or would so operate but for any provision of the Income Tax Acts or the Corporation Tax Acts (other than this paragraph) reducing writing-down allowances—

- (a) if the person to whom the balancing allowance would fall to be made proves that as respects the period during which the vehicle has been used for the purposes of his trade the amount (if any) falling to be made to him by way of writing-down allowances in respect of the vehicle is less

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than an amount at a rate of £500 a year, the amount of the balancing allowance shall not exceed the amount of the difference, increased, if any amount which could have been allowed by way of initial allowance was not claimed, by that amount ;

- (b) in any other case no balancing allowance shall be made unless any amount which could have been allowed by way of initial allowance was not claimed, and if so the balancing allowance shall not exceed that amount.

Reduction of allowances for part-time use, etc.

5. It is hereby declared that the provisions of the Income Tax Acts and the Corporation Tax Acts (other than this paragraph) which in special circumstances reduce initial or writing-down allowances, and balancing allowances, apply to allowances after modification by subsections (1) and (2) of section 32 of this Act and the preceding provisions of this Schedule ; and, in particular, where, in a case falling within section 37 or the proviso to section 38 of this Act, it is just and reasonable that paragraph 4 above should apply with the substitution for the reference to £500 of a reference to a smaller amount, that paragraph shall so apply, without prejudice to the determination in accordance with the said section 37 or the said proviso whether any balancing allowance falls to be made, or would fall to be made apart from paragraph 4 above.

Subsidies and contributions to expenditure

6. Where under section 84 of this Act any part of the expenditure incurred on the provision of a vehicle is to be treated as not having been incurred by a person, or under section 85 of this Act a person's contribution to such expenditure is to be treated as expenditure on the provision of a similar vehicle, subsections (1) and (2) of section 32 of this Act and the preceding provisions of this Schedule shall have the like effect as if for the references to £500 (read with section 19(3) of this Act) and to £600 there were substituted references to sums which bear the same proportion thereto as the amount of expenditure which is to be treated as having been incurred by the person providing the vehicle, or as the case may be the amount of the contribution, bears to the whole expenditure incurred on the provision of the vehicle.

Option in case of replacement of machinery or plant

7. Section 40(1) of this Act shall not have effect where the vehicle is the new plant referred to in that subsection, and this provision shall apply in relation to balancing charges as well as in relation to initial and writing-down allowances.

Limit on renewals allowances

- 8.—(1) In determining what amount (if any) is allowable—
- (a) to be deducted in computing profits or gains chargeable to tax under Schedule D, or
 - (b) to be deducted from emoluments chargeable to tax under Schedule E, or

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1960 c. 44.

(c) to be taken into account for the purposes of any allowances falling to be made by virtue of section 72(2) of the Finance Act 1960,

in respect of capital expenditure, being expenditure exceeding £2,000 incurred on the provision of a vehicle, the excess over £2,000 shall be disregarded for all purposes; but if on the replacement of the vehicle any amount becomes allowable as aforesaid in respect of capital expenditure on any other vehicle, any deduction falling to be made, in determining the last-mentioned amount, for the value or proceeds of sale of the replaced vehicle or otherwise in respect thereof shall be reduced in the proportion which £2,000 bears to the cost of the replaced vehicle.

(2) Where a vehicle to which this Schedule applies is replaced by another such vehicle, and sub-paragraph (1) above has effect, the capital expenditure on the provision of the replacement vehicle shall be taken for the purposes of Chapter II of Part I of this Act (including this Schedule) to be the amount of the deduction (if any) falling to be made, in determining what amount is allowable as mentioned in sub-paragraph (1) above, by reason of the cost of the replacement vehicle exceeding the cost of the replaced vehicle.

(3) In sub-paragraph (1) above "capital expenditure" shall be construed without regard to section 82(1) of this Act.

Limit on deductions, etc. for hiring cars

9.—(1) Where apart from this paragraph the amount of any expenditure on the hiring (otherwise than by way of hire-purchase) of a vehicle to which this paragraph applies would be allowed to be deducted or taken into account as mentioned in paragraph 8(1) above, and the retail price of the vehicle at the time when it was made exceeded £2,000, the said amount shall be reduced in the proportion which £2,000, together with one half of the excess, bears to the said price.

(2) Where a person, having on or after 4th April 1963 hired (otherwise than by way of hire-purchase) a vehicle to which this paragraph applies, subsequently becomes the owner thereof, and the retail price of the vehicle at the time it was made exceeded £2,000, then for the purposes of the Income Tax Acts and the Corporation Tax Acts (and in particular section 32 of this Act and this Schedule)—

(a) so much of the aggregate of the payments for the hire of the vehicle and of any payment for the acquisition thereof as does not exceed the retail price of the vehicle at the time it was made shall be treated as capital expenditure incurred on the provision of the vehicle, and as having been incurred when the hiring began, and

(b) the payments to be treated as expenditure on the hiring of the vehicle shall be rateably reduced so as to amount in the aggregate to the balance.

(3) The descriptions of vehicles to which this paragraph applies are those to which section 32 of this Act applies, and those to which it would apply but for subsection (6) of that section.

Apportionment of hire-purchase payments

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10.—(1) Where the person providing a vehicle takes it under a hire-purchase contract, and the retail price at the time of the contract exceeds £2,000, then in apportioning the payments under the contract between capital expenditure incurred on the provision of the vehicle and other expenditure so much of those payments shall be treated as such capital expenditure as is equal to the price which would be chargeable, at the time the contract is entered into, to the person providing the vehicle if he were acquiring it on a sale outright.

(2) This paragraph applies to all mechanically propelled road vehicles constructed or adapted for the carriage of passengers, other than vehicles of a type not commonly used as a private vehicle and unsuitable to be so used.

Supplemental

11.—(1) There shall be made all such assessments and adjustments of assessments as may be necessary for the purpose of giving effect to section 32(6) of this Act, and to paragraph 9(2) above, and any such assessments or adjustments of assessments may be made at any time.

(2) In the case of the death of a person who, if he had not died, would, under the said provisions, have become chargeable to tax for any year, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.

(3) Any claim for an allowance by virtue of paragraph 9(2) above may be made in connection with the making or adjusting of assessments under this paragraph, and whether so made or not may notwithstanding anything in section 70 of this Act be made at any time not later than two years after the claimant became the owner of the vehicle.

SCHEDULE 3

Sections 18(7)
and 85(2).

MACHINERY AND PLANT: HIRE-PURCHASE, ETC.

1.—(1) Where a person, having incurred capital expenditure on the provision of machinery or plant under a contract providing that he shall or may become the owner of the machinery or plant on the performance of the contract—

(a) without becoming the owner of it ceases to be entitled to the benefit of the contract, so far as it relates to the machinery or plant, and

(b) receives or is entitled to any capital sum by way of consideration, compensation, damages or insurance moneys in respect of his rights under the contract or of the machinery or plant,

then (subject to paragraph 2 of this Schedule) that expenditure shall be left out of account for the purposes of Chapter II of Part I of this Act.

(2) Where—

(a) a person who has incurred capital expenditure as aforesaid dies or otherwise ceases to be entitled to the benefit of the

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contract, so far as it relates to the machinery or plant, without either becoming the owner of the machinery or plant or receiving or being entitled to any such capital sum as aforesaid, and

(b) another person, having become entitled to the benefit of that expenditure—

(i) ceases to be entitled to it without becoming the owner of the machinery or plant, and

(ii) receives or is entitled to any capital sum by way of consideration, compensation, damages or insurance moneys in respect of that benefit or of the machinery or plant,

the preceding sub-paragraph shall apply as if the person incurring the expenditure had received such a capital sum as is mentioned in paragraph (b) of that sub-paragraph.

2. Paragraph 1 above shall not affect any allowance given by virtue of section 85 of this Act in respect of a person's contribution to another person's expenditure; but an initial allowance shall not be given by virtue of that section in respect of a person's contribution or, if previously given, shall be withdrawn where, without the machinery or plant belonging to the person making the contribution or to the person for the time being carrying on the trade for the purposes of which it is provided, the relevant asset ceases to be treated under section 85(2) of this Act as belonging to the person making the contribution, and he receives any capital sum by way of consideration, compensation, damages or insurance moneys in respect of his contribution or of the machinery or plant.

3.—(1) Where a person has incurred capital expenditure on the provision of machinery or plant for the purposes of his trade (without the machinery or plant belonging to him), and he or the person for the time being entitled to the benefit of that expenditure enters into any arrangement which, with or without any associated transactions, has the effect (or would if tax were chargeable in respect of any profits or gains of the trade have the effect) both—

(a) that, under paragraph 1 of this Schedule, that expenditure falls to be left out of account for the purposes of the said Chapter II, and

(b) that another person ("the successor") incurs capital expenditure on the provision of machinery or plant for the purposes of his trade in securing for himself the benefit of that expenditure incurred by the first-mentioned person,

then that expenditure incurred by the successor, in so far as it exceeds that expenditure incurred by the first-mentioned person, shall also be left out of account for the purposes of the said Chapter II, if in addition—

(i) of the successor and the person last previously entitled to the benefit aforesaid, either is a body of persons over whom the other has control or both are bodies of persons and some other person has control over both, or

(ii) it appears with respect to the arrangement, or with respect to transactions of which the arrangement is one, that the sole or main benefit which, apart from the provisions of this paragraph, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under the said Chapter II.

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(2) In this paragraph "body of persons" includes a partnership.

4.—(1) There shall be made all such assessments and adjustments of assessments as may be necessary for or in consequence of the withdrawal of any allowance given in respect of expenditure falling to be left out of account under this Schedule, or as may otherwise be necessary for the purpose of giving effect to this Schedule, and any such assessments or adjustments of assessments may be made at any time.

(2) In the case of the death of a person who, if he had not died, would, under the provisions of this Schedule, have become chargeable to tax for any year, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.

SCHEDULE 4

Section 20(6).

MACHINERY AND PLANT: EXISTING WRITING-DOWN PERCENTAGES

Application of existing determinations to 1968-69 and later years

1.—(1) The provisions of this paragraph are without prejudice to section 20(6) of this Act as read with Part III of this Act, and shall have effect, as respects machinery or plant to which paragraphs 2 and 3 below apply, subject to the provisions of those paragraphs.

(2) Except so far as it is superseded by any subsequent determination under section 20(3) or section 21(3) of this Act, any determination under section 35(3) of the Finance Act 1963 (or under that subsection as applied by subsection (6) of the same section) made for or applied to the year 1967-68 shall apply also to subsequent years as if made under section 20(3) or section 21(3) of this Act as the case may be. 1963 c. 25.

(3) Except so far as it is superseded by any subsequent determination under section 20(4) or section 21(4) of this Act, any determination made or deemed to be made under section 281 or section 282 of the Income Tax Act 1952, being a determination made for or applied to the year 1967-68, shall apply also to subsequent years as if it were the determination of a basic percentage under the said section 20(4) or the said section 21(4) as the case may be. 1952 c. 10.

(4) References in section 20 of this Act to a class of machinery or plant include references to any machinery or plant which was the subject of a determination applied for the year 1967-68 by virtue

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1952 c. 10.

of section 281(5) of the Income Tax Act 1952 (percentages in use in 1948-49 for machinery or plant not within a class for which a determination was made).

New machinery and plant provided after 5th November 1962

2.—(1) This and the next following paragraph apply to new machinery or plant capital expenditure on the provision of which was incurred after 5th November 1962 (within the meaning of that expression as defined in section 19(4) of this Act).

(2) Where a writing-down allowance under section 20 of this Act in respect of machinery or plant to which this paragraph applies falls to be computed by reference to a percentage established before the year 1963-64, the amount of the allowance resulting under sub-paragraph (4) below from the application of that percentage—

- (a) where it is less than 15 per cent. of the relevant capital amount, shall be increased so as to equal 15 per cent. of that amount,
- (b) where it is between 15 and 20 per cent. of the relevant capital amount, shall be increased so as to equal 20 per cent. of that amount,
- (c) where it is less than 25 but not less than 20 per cent. of the relevant capital amount, shall be increased so as to equal 25 per cent. of that amount.

(3) Where a writing-down allowance under section 21 of this Act in respect of machinery or plant to which this paragraph applies falls to be computed by reference to a percentage established before the year 1963-64, the amount of the allowance resulting under sub-paragraph (4) below from the application of that percentage—

- (a) where it is less than $6\frac{1}{2}$ per cent. of the relevant capital amount, shall be increased so as to equal $6\frac{1}{2}$ per cent. of that amount,
- (b) where it is between $6\frac{1}{2}$ and $8\frac{1}{2}$ per cent. of the relevant capital amount, shall be increased so as to equal $8\frac{1}{2}$ per cent. of that amount,
- (c) where it is less than $11\frac{1}{2}$ but not less than $8\frac{1}{2}$ per cent. of the relevant capital amount, shall be increased so as to equal $11\frac{1}{2}$ per cent. of that amount.

(4) Paragraph 1(3) above shall apply to a determination carried forward from a year before 1963-64 in respect of a class of machinery or plant notwithstanding that it includes machinery or plant to which this paragraph applies, and in that case the basic percentage established by the determination and the provisions of section 20(4) or, as the case may be, section 21(4) of this Act increasing it by one-quarter shall have effect as respects the said machinery or plant for the purposes of—

- (a) deciding whether or not a writing-down allowance falls to be increased under sub-paragraph (2) or (3) above,

(b) arriving at the amount of a writing-down allowance which does not fall to be so increased, and

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(c) the calculation referred to in sub-paragraph (5) below.

(5) Where paragraph 1(3) above applies in accordance with sub-paragraph (4) of this paragraph to a determination carried forward from a year before 1963-64—

(a) the said paragraph 1(3) shall have effect, as respects machinery or plant to which this paragraph applies, as if for the reference to any subsequent determination under section 20(4) or section 21(4) of this Act there were substituted a reference to any subsequent determination under section 20(3) or section 21(3) of this Act, and

(b) in deciding whether or not, as respects such machinery or plant as aforesaid, a redetermination of the percentage established by the first-mentioned determination is necessary, the amount of the basic percentage as falling to be adjusted, that is to say, as increased by one-quarter under the last preceding sub-paragraph and further increased, where so required, under sub-paragraph (2) or (3) above, shall be treated as if it were a percentage determined in accordance with the said section 20(3) or section 21(3), as the case may be,

so, however, that where the basic percentage, as increased by one-quarter, is greater than the percentage mentioned in sub-paragraph (2)(c) or, as the case may be, sub-paragraph (3)(c) above, paragraph (b) of this sub-paragraph shall apply as if that greater percentage were instead so mentioned.

3.—(1) References in paragraph 2 above to a percentage established before the year 1963-64 shall be construed as references to a percentage established by a determination which before the commencement of this Act was made or deemed to be made under section 281(2), or, as the case may be, section 282(2), of the Income Tax Act 1952 for a year before the year 1963-64. 1952 c. 10.

(2) Where, in the case of machinery or plant of any class, annual allowances for the year 1962-63 or any earlier year of assessment falling to be computed in accordance with the said section 281 or 282 were computed by reference to a percentage which, though not determined or deemed to have been determined by the Board under that section, was commonly treated as if it had been so determined, that percentage shall, notwithstanding that a percentage has, after the commencement of the Finance Act 1963, been so determined for the year, be regarded for the purposes of this Schedule as the percentage so determined in respect of machinery or plant of that class for the year 1962-63 or that earlier year, as the case may be. 1963 c. 25.

(3) In paragraph 2 of this Schedule "relevant capital amount" means the amount specified in section 20(1) or, as the case may be, section 21(1) of this Act as the amount by reference to which a writing-down allowance to be computed.

Sections 52, 53
and 54.

SCHEDULE 5

MINERALS: SPECIAL PROVISIONS FOR CERTAIN EXPENDITURE

Exploration machinery and plant

1.—(1) Where machinery or plant used by any person in searching for, or discovering and testing, the mineral deposits of any source, or winning access thereto, either—

(a) is not sold, demolished or destroyed before the source is worked in the course of a trade, or

(b) before being sold, demolished or destroyed as aforesaid, or before being used as aforesaid, is used by him for some other purpose,

then of the capital expenditure incurred by him on the machinery or plant so much only shall be treated for the purposes of Chapter III of Part I of this Act as incurred in connection with that source as in the opinion of the inspector (or, on appeal, of the Commissioners having jurisdiction in the matter) does not exceed the amount of the diminution in the value of the machinery or plant attributable to its use in searching for, discovering and testing and winning access to the deposits of that source, and the remainder shall not be treated as qualifying expenditure by reason of the use of the machinery or plant in connection with that source.

(2) In the case of machinery or plant used in searching for, or discovering and testing, or winning access to, the deposits of more than one source the aggregate amount of the expenditure treated under this paragraph as incurred by any person in connection with those sources shall not exceed the total amount of the expenditure incurred by him on the machinery or plant.

2.—(1) Where a person carrying on a trade which consists of or includes the working of any mine, oil well or other source of mineral deposits of a wasting nature has incurred qualifying expenditure on machinery or plant for the purposes of that trade, then for the purposes of Chapter III of Part I of this Act any sale, insurance, salvage or compensation moneys in respect of the machinery or plant shall—

(a) if by virtue of the preceding paragraph the qualifying expenditure is not the whole of the capital expenditure incurred by him on the machinery or plant, be disregarded except in so far as they exceed the difference between the said capital expenditure and the qualifying expenditure on the machinery or plant,

(b) subject to paragraph (a) of this sub-paragraph, if the qualifying expenditure on the machinery or plant was incurred in connection with more than one source, be apportioned between the sources in such manner as appears to the inspector (or, on appeal, to the Commissioners having jurisdiction in the matter) to be appropriate.

(2) The deductions to be made under section 57(6) of this Act in respect of any machinery or plant shall not, in the case of any source, exceed the amount of the qualifying expenditure on the machinery or plant incurred in connection with that source.

(3) In Schedule 7 to this Act references to machinery or plant shall not apply in the case of machinery or plant which for the seller of the machinery or plant is an asset representing qualifying expenditure.

Overseas mineral rights and land

3.—(1) Where—

- (a) a person incurs expenditure to which section 53(1) of this Act applies on acquiring any deposits or rights, and
- (b) those deposits or rights had previously been acquired by some other person, being, or being a body corporate or partnership under the control of, a person resident in the United Kingdom, and
- (c) the case is not one to which section 58(7) of this Act applies,

then subject to paragraph 5 below, the said expenditure of the first-mentioned person shall be left out of account for the purposes of Chapter III of Part I of this Act so far as it exceeds the capital expenditure incurred by the said other person in acquiring the deposits or rights.

(2) In the cases specified in this sub-paragraph, sub-paragraph (1) above and paragraph 5 below shall have effect subject to the following provisions—

- (a) if there has been more than one acquisition to which sub-paragraph (1)(b) above applies, regard shall be had only to that one of the other persons mentioned in the said sub-paragraph (1)(b) who first acquired the deposits or rights,
- (b) where any such other person as is mentioned in the said sub-paragraph (1)(b) carried on a trade which consisted of or included the buying or selling of, or of rights in or over, mineral deposits, references to capital expenditure shall, in relation to him, be deemed to include expenditure which would have been capital expenditure if his trade had been the working of the deposits or rights in question and had not included such buying and selling as aforesaid,
- (c) in computing the expenditure of any such other person, liabilities undertaken by him which, in connection with the disposal by him of the deposits or rights in question, have been taken over by some other person may, notwithstanding anything in section 82(3) of this Act, be taken into account.

4.—(1) Where—

- (a) a person incurs or has incurred in connection with any source of mineral deposits any such expenditure as is mentioned in section 54(1) of this Act, and
- (b) the land acquired by him had previously been acquired by some other person, being, or being a body corporate or partnership under the control of, a person resident in the United Kingdom, and had been so acquired either for use in connection with the working of that source or for the

SCH. 5

purpose of a trade consisting of or including the buying and selling of land containing mineral deposits, and

(c) the case is not one to which section 58(7) of this Act applies, then subject to paragraph 5 below, that expenditure shall not be treated by virtue of the said section 54 as qualifying expenditure so far as it exceeds the capital expenditure incurred by the said other person in acquiring the land.

(2) In the cases specified in this sub-paragraph, sub-paragraph (1) above and paragraph 5 below shall have effect subject to the following provisions—

(a) if there has been more than one acquisition to which sub-paragraph (1)(b) above applies, regard shall be had only to the first of those acquisitions,

(b) where the person making the acquisition to which the said sub-paragraph (1)(b) applies (or, if there has been more than one such acquisition, the one to which regard is to be had) carried on a trade consisting of or including the buying and selling of land containing mineral deposits, references to capital expenditure shall, in relation to him, be taken to include expenditure which would have been capital expenditure if his trade had been the working of the source in question and had not included such buying and selling as aforesaid,

(c) in computing the expenditure of the person making the said acquisition, liabilities undertaken by him which, in connection with the disposal by him of the land in question, have been taken over by some other person may, notwithstanding anything in section 82(3) of this Act, be taken into account.

5.—(1) Where the source or part of the source in question in paragraph 3 or the source in question in paragraph 4 above has been worked between the dates of the two acquisitions, the capital expenditure of the other person mentioned in paragraph 3(1)(b) or paragraph 4(1)(b), as the case may be, incurred in acquiring the deposits or rights, or, as the case may be, the land, shall be treated for the purposes of paragraphs 3(1) and 4(1) above as reduced as follows.

(2) In a case where the expenditure is incurred on or after the appointed day it shall be reduced by applying the fraction $\frac{A}{A+B}$ where—

“A” is the total potential future output from the source or part, estimated as at the later of those dates, and

“B” is the actual output from the source or part between those dates.

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(3) In a case where the expenditure was incurred before the appointed day it shall be reduced by applying the fraction $\frac{A+C}{B+C}$

where—

“A” is the actual total output from the source or part from the later of those dates to the appointed day,

“B” is the actual total output from the source or part from the earlier of those dates up to the appointed day, and

“C” is the total potential future output from the source or part, estimated as at the appointed day.

SCHEDULE 6

Section 57(5).

MINERALS: EXPENDITURE INCURRED BEFORE APPOINTED DAY

PART I

PRELIMINARY

1. The amount of expenditure which a person who, on the appointed day, was carrying on a trade which consisted of or included the working of a mine, oil well or other source of mineral deposits of a wasting nature is to be treated for certain purposes of Chapter III of Part I of this Act as having incurred on that day shall, except in the cases dealt with in Part III of this Schedule, be the amount specified in Part II thereof.

2. In the following provisions of this Schedule, the said expenditure is referred to as “the appointed day expenditure” and the said person is referred to as “the trader”.

PART II

PROVISIONS APPLICABLE WHERE PART III OF THIS SCHEDULE DOES NOT APPLY

3. Except in cases to which Part III of this Schedule applies, the amount of the appointed day expenditure shall be ascertained by—

- (a) ascertaining the total qualifying expenditure which was incurred by the trader before the appointed day for the purposes of the trade and in connection with the source, and
- (b) subtracting therefrom the amounts specified in paragraph 4 of this Schedule, and
- (c) applying the fraction specified in paragraph 5 of this Schedule to the result.

4. The said amounts are—

- (a) where any asset representing any part of the expenditure incurred by the trader as aforesaid before the appointed day has, before the appointed day, been sold by him, the

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amount of the expenditure so incurred which is attributable to that asset, and

- (b) where the assets representing the expenditure so incurred, not being assets sold by the trader before the appointed day, consist of or include buildings or structures, any relevant mills, factories or exceptional depreciation allowances made in respect of the buildings or structures for any year of assessment before that in which the appointed day fell.

5. The said fraction is $\frac{A}{A+B}$ where—

“A” is the total potential future output from the source, estimated as at the appointed day, and

“B” is the total output from the source before the appointed day.

6.—(1) In relation to expenditure which is qualifying expenditure by virtue of section 52 or section 54 of this Act—

(a) references in this Part of this Schedule to qualifying expenditure shall be taken as referring only to expenditure which is qualifying expenditure by virtue of those sections, and

(b) in applying paragraph 5 above, there shall be left out of account under head B, in the case of expenditure on machinery or plant, any output from the source before the machinery or plant was used in connection with the source and, in the case of expenditure on land, any output from the source before the trader acquired the land.

(2) In relation to expenditure to which section 53(1) of this Act applies—

(a) references in this Part of this Schedule to qualifying expenditure shall be taken as referring only to expenditure which is qualifying expenditure by virtue of the said section 53, and

(b) in applying paragraph 5 above, there shall be left out of account under head B any output before the trader acquired the source.

PART III

ASSETS PURCHASED FROM A PREDECESSOR

7.—(1) Where, at or about the time when the trader began to work the source, he acquired from a predecessor in the working of the source assets representing qualifying expenditure, incurred by that or any other predecessor in the working of the source, the amount of the appointed day expenditure shall be whichever of the amounts respectively specified in the two next following paragraphs is the smaller.

(2) In this paragraph and the following provisions of this Part of this Schedule, “predecessor in the working of the source” means a person who has, before the appointed day, carried on a trade which

consisted of or included the working of the source but has, before that day, ceased to work it.

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(3) In the following provisions of this Part of this Schedule, the assets mentioned in sub-paragraph (1) of this paragraph are referred to as "the acquired assets".

8.—(1) The first of the amounts mentioned in the last preceding paragraph is the amount which results from—

- (a) ascertaining the total qualifying expenditure which was incurred either on the acquired assets by any predecessor in the working of the source for the purposes of his trade and in connection with that source or by the trader for the purposes of his trade and in connection with the source, and
- (b) subtracting therefrom the sums specified in sub-paragraph (2) of this paragraph, and
- (c) applying to the result the fraction specified in sub-paragraph (3) of this paragraph.

(2) The said sums are—

- (a) where any of the acquired assets has, before the appointed day, been sold by the trader, so much of the said expenditure incurred by any predecessor in the working of the source as is attributable to that asset,
- (b) where any asset representing any part of the expenditure incurred by the trader as aforesaid before the appointed day has, before the appointed day, been sold by him, the amount of that expenditure which is attributable to that asset, and
- (c) where any of the acquired assets or any asset representing any such expenditure as aforesaid of the trader consists of buildings or structures (not being buildings or structures sold by the trader before the appointed day) any relevant mills, factories or exceptional depreciation allowances made in respect of the buildings or structures for any year of assessment before that in which the appointed day fell.

(3) The said fraction is $\frac{A}{A+B}$ where—

"A" is the total potential future output from the source, estimated as at the appointed day, and

"B" is the total output from the source before the appointed day.

9.—(1) The second of the said amounts is the amount which results from—

- (a) adding the price paid by the trader for the acquired assets to all the qualifying expenditure which he incurred for the purposes of the trade and in connection with the source between the time when he acquired those assets and the appointed day, and

SCH. 6

- (b) subtracting from the total the sums specified in sub-paragraph (2) of this paragraph, and
- (c) applying to the result the fraction specified in sub-paragraph (3) of this paragraph.
- (2) The said sums are—
- (a) where any asset representing the expenditure mentioned in sub-paragraph (1)(a) above has, before the appointed day, been sold by the trader, the amount of that expenditure which is attributable to that asset, and
- (b) where any of the acquired assets has, before the appointed day, been sold by the trader, the price paid by the trader for the asset, and
- (c) where the assets representing that expenditure, not being assets sold by the trader before the appointed day, consist of or include buildings or structures, any relevant mills, factories or exceptional depreciation allowances made to him in respect of the buildings or structures for any year of assessment before the year in which the appointed day fell.
- (3) The said fraction is $\frac{A}{A+B}$ where—
- “A” is the total potential future output from the source, estimated as at the appointed day, and
- “B” is the total output from the source between the date of the acquisition of the acquired assets and the appointed day.
10. This Part of this Schedule shall not apply in relation to—
- (a) expenditure which is qualifying expenditure by virtue of section 52 or section 54 of this Act, or
- (b) expenditure to which section 53(1) of this Act applies.

Sections 78,
81(2), 95(3) and
Schedules 1, 2,
5 and 12.

SCHEDULE 7

OPERATION OF PARTS I AND II IN RELATION TO CERTAIN SALES

General

- 1.—(1) This Schedule has effect in relation to the sales specified in section 78 of this Act, that is to say, sales of any property where either—
- (a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them, or
- (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this Schedule,

might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under Part I or Part II of this Act.

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References in this sub-paragraph to a body of persons include references to a partnership.

(2) Subject to paragraph 4(3) below, this Schedule shall have effect in relation to a sale notwithstanding that it is not fully applicable by reason of the non-residence of a party to the sale or otherwise:

Provided that this sub-paragraph and the said paragraph 4(3) shall not apply in the case of a sale made before 6th April 1954 where the property was sold at a price other than that which it would have fetched if sold in the open market.

2. Where the property is sold at a price other than that which it would have fetched if sold in the open market, then, subject to the following provisions of this Schedule, the like consequences shall ensue for the purposes of the said Parts I and II, in their application to the tax of all persons concerned, as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

Machinery or plant

3.—(1) Subject to the provisions of this paragraph, where the sale is a sale of machinery or plant—

- (a) no initial allowance shall be made to the buyer, and
- (b) subject to the provisions of paragraph 4 of this Schedule, if the price which the property would have fetched if sold in the open market is greater than the limit of recharge on the seller, paragraph 2 of this Schedule shall have effect as if for each of the references to the price which the property would have fetched if sold in the open market there were substituted a reference to the said limit of recharge:

Provided that this sub-paragraph shall not apply in relation to a sale of machinery or plant which has never been used if the business or part of the business of the seller was the manufacture or supply of machinery or plant of that class and the sale was effected in the ordinary course of the seller's business.

(2) Where, in the case of any sale of machinery or plant—

- (a) the sale is one to which sub-paragraph (1)(a) of paragraph 1 of this Schedule applies and sub-paragraph (1)(b) of the said paragraph 1 does not apply, and
- (b) an initial allowance fell to be made to the seller of the machinery or plant in respect of the capital expenditure which he incurred on the provision thereof, and
- (c) a balancing charge is made on the seller by reason of the sale, and

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- (d) the price which the machinery or plant would have fetched if sold in the open market at the time of the sale exceeds the appropriate fraction of the limit of recharge on the seller,

sub-paragraph (1)(a) of this paragraph shall not apply, but the initial allowance to the buyer shall not exceed whichever of the three following amounts is the least, that is to say—

- (i) the excess of the said price over the appropriate fraction of the said limit of recharge,
 (ii) the initial allowance which fell to be made to the seller as aforesaid, and
 (iii) the amount on which a balancing charge is made on the seller as aforesaid.

(3) In sub-paragraph (2) above the appropriate fraction is—

- 1958 c. 56. (a) seven-tenths where the rate of the seller's initial allowance was three-tenths by virtue of section 18 of this Act or section 15 of the Finance Act 1958 (expenditure incurred on or after 15th April 1958),
 1959 c. 58. (b) subject to the provisions of paragraph 1 of Schedule 1 to this Act, nine-tenths where the rate of the seller's initial allowance was one-tenth by virtue of paragraph 1 or paragraph 2 of the said Schedule 1 or section 21 of the Finance Act 1959 (expenditure incurred after 7th April 1959 on assets qualifying for investment allowance),
 1953 c. 34. (c) four-fifths where the rate of the seller's initial allowance was one-fifth by virtue of section 16 of the Finance Act 1953 (expenditure incurred on or after 15th April 1953),
 1952 c. 10.
 1951 c. 43. (d) three-fifths where the rate of the seller's initial allowance was two-fifths by virtue of the proviso to section 279(5) of the Income Tax Act 1952 or the proviso to section 20(1) of the Finance Act 1951 (expenditure on ship under contract entered into at 10th April 1951) or section 20 of the Finance Act 1949 (expenditure incurred on or after 6th April 1949 and before 6th April 1952),
 1949 c. 47. (e) four-fifths where the expenditure referred to in sub-paragraph (2)(b) above was incurred before 6th April 1949.

(4) In this paragraph, "the limit of recharge" means, in relation to a person who sells machinery or plant—

- (a) if he provided that machinery or plant for himself before the appointed day, the actual cost to him of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on machinery or plant by way of renewal, improvement or reinstatement,
 (b) if he provided the machinery or plant for himself on or after the appointed day, the expenditure incurred by him on the provision thereof.

In this sub-paragraph "the appointed day" means 6th April 1946.

Sales without change of control

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4.—(1) Subject to sub-paragraph (3) below, where the sale is one to which sub-paragraph (1)(a) of paragraph 1 of this Schedule applies and sub-paragraph (1)(b) of that paragraph does not apply, and the parties to the sale by notice in writing to the inspector so elect, the following provisions shall have effect—

(a) paragraph 2 of this Schedule shall have effect as if for each of the references to the price which the property would have fetched if sold in the open market there were substituted a reference to that price or to the sum hereinafter mentioned, whichever is the lower, and

(b) paragraph 3(1)(b) above shall not apply, and

(c) notwithstanding anything in the preceding provisions of this Schedule, such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed all such allowances or deductions in connection therewith as were done by or allowed to the buyer.

(2) The sum referred to in sub-paragraph (1)(a) of this paragraph is—

(a) in the case of an industrial building or structure the residue of the expenditure on the construction of that building or structure immediately before the sale, computed in accordance with the provisions of section 4 of this Act,

(b) in the case of machinery or plant, the amount of the expenditure on the provision thereof still unallowed immediately before the sale, computed in accordance with the provisions of section 41 of this Act,

(c) in the case of assets representing qualifying expenditure as defined in section 51(1) of this Act, the residue of the expenditure attributable to those assets immediately before the sale, computed in accordance with the provisions of Chapter III of Part I of this Act.

(3) An election may not be made under this paragraph if—

(a) any of the parties to the sale is not resident in the United Kingdom at the time of sale, and

(b) the circumstances are not at that time such that an allowance or charge under Part I or Part II of this Act falls or might fall to be made to or on that party in consequence of the sale.

SCHEDULE 8

Section 80.

ASSETS TRANSFERRED UNDER NATIONALISATION SCHEMES:
TRANSITORY PROVISIONS

PART I

ASSETS TRANSFERRED UNDER THE
COAL INDUSTRY NATIONALISATION ACT 1946*General*

1. In this Part of this Schedule—

“colliery concern” has the meaning assigned to it by section 63 of the Coal Industry Nationalisation Act 1946 ;

1946 c. 59.

- SCH. 8
- 1946 c. 59.
- 1930 c. 34.
- “relevant property” means property which, or an interest in which, vested in the National Coal Board by virtue of section 5 or section 6 of the Coal Industry Nationalisation Act 1946, or by virtue of section 44 of, and Schedule 3 to, that Act, being property which, or, as the case may be, an interest in which, was, immediately before the vesting, an asset of a colliery concern, a subsidiary of a colliery concern, a body administering a scheme under Part I of the Coal Mines Act 1930 or the South Yorkshire Mines Drainage Committee: and “relevant building or structure” and “relevant machinery or plant” shall be construed accordingly;
- “subsidiary” has the meaning assigned to it by paragraph 25 of Schedule 1 to the Coal Industry Nationalisation Act 1946;
- “the transferor” means, in relation to any relevant property, the person who immediately before the vesting date owned the property or, as the case may be, the interest in the property which vested;
- “vest” means vest in the National Coal Board under the said section 5, the said section 6, or the said section 44 and the said Schedule 3;
- “the vesting date” means, in relation to any relevant property, the date of the vesting of that property or of any interest therein, as the case may be.

2. Where any relevant property has vested in the National Coal Board, this Part of this Schedule shall have effect in computing the liability to tax of the said Board.

3. In relation to any relevant property, the vesting date or the date on which the property was first used for the purposes of the trade of the National Coal Board, whichever is the earlier, shall be treated as substituted for 6th April 1946 in the definitions of “appointed day” in Part I of this Act, and references in this Part of this Schedule to the appointed day shall be construed accordingly.

4. The vesting of, or of an interest in, any relevant property shall not be treated as a sale, or as a purchase, for any of the purposes of Chapters I, II and III of Part I of this Act, or for any of the purposes of Part II of this Act.

Industrial buildings and structures, etc.

5. For the purposes of section 3(6) of this Act, any relevant mills, factories or exceptional depreciation allowances made to the transferor in respect of any relevant building or structure shall be treated as having been made to the National Coal Board.

6. Any relevant mills, factories and exceptional depreciation allowances made in respect of any relevant building or structure to the transferor for the year of assessment in which the appointed day fell shall be treated for the purposes of section 4(7) of this Act as if they had been made for a year of assessment before that in which the appointed day fell.

Machinery and plant

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7.—(1) The provisions of this paragraph shall have effect for the purpose of determining whether any, and if so what, deduction, allowance or charge is to be allowed or made under Chapter II of Part I of this Act in respect of any relevant machinery or plant.

(2) Any expenditure incurred by the transferor on the provision of the machinery or plant for the purposes of his trade shall be treated as if it had been incurred by the National Coal Board on the provision thereof for the purposes of their corresponding trade.

(3) Any allowances or deductions made or allowed in respect of, or of any expenditure on, the machinery or plant to the transferor shall be treated as if they had been made or allowed to the said Board, and, for the purposes of section 27(1) of this Act, any such allowances or deductions made or allowed for the year of assessment in which the appointed day fell shall be treated as if they had been made or allowed for a year of assessment previous to that year.

(4) Nothing in this paragraph shall be construed as allowing any allowance made to the transferor to which full effect could not be given owing to an insufficiency of profits or gains of the transferor to be added to or form part of any allowance made to the said Board.

(5) The references in this paragraph to expenditure incurred by the transferor on the provision of the machinery or plant for the purposes of his trade include references to any such expenditure incidental to the provision thereof as is mentioned in section 45 of this Act.

Allowances and charges under Chapter III of Part I of this Act

8. Where the appointed day was after the end of the year 1946-47, section 57(6)(c) of this Act shall not apply.

9. In the application of Schedule 6 to this Act to expenditure on or in connection with any relevant property—

- (a) references in Parts II and III of that Schedule to the trader shall be construed as references to the transferor, and
- (b) references in Part III of that Schedule to any predecessor in the working of the source shall be construed as not including references to the transferor, and
- (c) references in Parts II and III of that Schedule to any relevant mills, factories or exceptional depreciation allowances for any year of assessment before that in which the appointed day fell shall be deemed to include references to any relevant mills, factories or exceptional depreciation allowances for the year of assessment in which the appointed day fell.

PART II

ASSETS TRANSFERRED UNDER THE TRANSPORT ACT 1962

10.—(1) The provisions of this Act, other than section 67, shall apply in relation to the Boards constituted under section 1 of the

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1962 c. 46.

Transport Act 1962 (hereinafter called "the Transport Boards") as if—

- (a) all the assets which under and in pursuance of Part II of the said Act of 1962 were transferred to the Transport Boards had been sold to them by the British Transport Commission on 1st January 1963 in the open market at prices equal to the net book values of those assets (that is to say, the values after deducting any provision for maintenance equalisation and for any form of depreciation) as shown in the books by reference to which the final accounts of the said Commission were made up, and
- (b) on 1st January 1963 the trade carried on by the Commission had been permanently discontinued and the Transport Boards had set up new trades.

(2) If at any time the Minister of Transport directs under section 40(4) of the said Act of 1962, and by reference to paragraph (a) of that subsection, that a part of the British Railways Board's suspended debt shall be extinguished, this paragraph shall apply, and shall be deemed always to have applied, as if the net values of the assets which under or in pursuance of Part II of that Act were transferred to the British Railways Board were the amount determined under sub-paragraph (1) above after deducting from that amount a sum equal to the part of the said Board's suspended debt so extinguished.

There shall be made all such adjustments, whether by way of assessment or otherwise, as may be necessary to give effect to this sub-paragraph and, notwithstanding anything in the Corporation Tax Acts or the Income Tax Acts, any adjustment to give effect to this sub-paragraph as respects any chargeable period may be made at any time not more than six years after the end of the chargeable period in which the Minister gives his direction under the said section 40(4).

(3) Section 67 of this Act shall apply as if the trade carried on by the British Transport Commission was not permanently discontinued at 1st January 1963 and was continued in part by the British Railways Board, in part by the British Transport Docks Board and in part by the British Waterways Board.

Section 85(1).

SCHEDULE 9

ALLOWANCES FOR CONTRIBUTIONS TOWARDS EXPENDITURE

1. Subject to the provisions of this Schedule, the amount of the allowances and the manner in which they are to be made shall be determined on the following basis—

- (a) the asset shall be deemed to continue at all material times to be in use for the purposes of the trade,

- (b) where the asset is machinery or plant and, when the contribution was made, the trade was carried on or to be carried on by a tenant of land in which the contributor has an interest, the contributor shall be deemed to have let the machinery or plant to the said tenant on such terms that the burden of the wear and tear thereof falls directly on the contributor.

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2. Where, when the contribution was made, the trade for the purposes of which it was made was carried on or to be carried on by the contributor, the following provisions shall have effect on any transfer of the trade or any part of the trade—

- (a) where the transfer is of the whole trade, writing-down allowances for chargeable periods ending after the date of transfer shall be made to the transferee, and shall not be made to the transferor,
- (b) where the transfer is of part only of the trade, the provisions of sub-paragraph (a) of this paragraph shall have effect with respect to so much of the allowance as is properly referable to the part of the trade transferred.

3.—(1) Where, when the contribution was made, the trade was carried on or to be carried on by a tenant of land in which the contributor had an interest, a writing-down allowance shall be made to a person for a chargeable period if at the end of that period he is entitled to the contributor's interest in the land, and section 11 of this Act shall, with the necessary modifications, apply in relation to a contribution made for the purposes of a trade carried on or to be carried on by a tenant of land as it applies in relation to expenditure incurred on the construction of a building or structure.

(2) Section 2(3) of this Act shall not apply in relation to writing-down allowances to be made in respect of contributions.

4. Paragraphs 2 and 3 of this Schedule shall not apply where the trade is husbandry in the United Kingdom or the occupation of woodlands in the United Kingdom, and in lieu thereof the provisions of section 68(4)(5) of this Act shall apply with any necessary modifications.

SCHEDULE 10

Sections
91 and 92.

SCIENTIFIC RESEARCH: TRANSITORY PROVISIONS

Income Tax

Deductions allowable in respect of expenditure incurred before 6th November 1962

1.—(1) This and the next following paragraph shall have effect for the purposes of income tax.

(2) Subject to that paragraph and to paragraph 4 below, where a person—

- (a) before 6th November 1962, has while carrying on a trade incurred expenditure of a capital nature on scientific research related to that trade and directly undertaken by him or on his behalf, or

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- (b) has, before that date, incurred expenditure of a capital nature on scientific research directly undertaken by him or on his behalf and, after incurring it, sets up and commences a trade connected with that research,

deductions in taxing the trade shall be allowed in respect of the expenditure in accordance with the following sub-paragraphs.

(3) The deductions shall be—

- (a) in the case of expenditure incurred after 5th April 1949, a deduction equal to three-fifths thereof for the first of the five years of assessment specified in sub-paragraph (4) below, and a deduction equal to one-tenth thereof for each of the remaining four of those years,
- (b) in the case of expenditure incurred on or before that date, a deduction equal to one-fifth thereof for each of the said five years.

(4) The five years of assessment are—

- (a) in the case of expenditure incurred before the end of the year of assessment in which the trade was set up and commenced, that and the next four years of assessment,
- (b) in the case of expenditure incurred after the end of the year of assessment in which the trade was set up and commenced but not later than twelve months from the setting up and commencement of the trade, the year of assessment next following that in which the trade was set up and commenced and the next four years of assessment,
- (c) in the case of expenditure incurred after twelve months from the setting up and commencement of the trade and during the basis year for any year of assessment, but subject to sub-paragraph (5) below, that and the next four years of assessment.

(5) In paragraph (c) of the last preceding sub-paragraph “basis year” means, in relation to a year of assessment, the period the profits or gains of which are, under section 127 of the Income Tax Act 1952, to be taken to be the profits or gains of the year preceding that year of assessment; and section 91(4) of this Act shall apply for the purposes of that paragraph as it applies for the purposes of subsection (3)(c) of that section.

1952 c. 10.

*Termination of user of assets provided before
6th November 1962*

2.—(1) Where an asset representing scientific research expenditure of a capital nature incurred before 6th November 1962 by the person carrying on a trade ceases to be used by that person for scientific research related to that trade—

- (a) no allowance shall be made under paragraph 1 above for any year of assessment after that in which the cessation takes place, and
- (b) if the amounts, if any, allowed under that paragraph in respect of the expenditure, added to the value of the asset immediately before the cessation, are less than the said expenditure, there shall be allowed in taxing the trade for

the year of assessment in which the cessation takes place an additional deduction equal to the difference.

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(2) Where an asset representing scientific research expenditure of a capital nature in respect of which an allowance or allowances has or have been made under paragraph 1 above, or sub-paragraph (1) of this paragraph, in taxing a trade ceases to be used by the person carrying on the trade for scientific research related to that trade, and is then or thereafter sold by him without having been used in the meantime for other purposes, then—

- (a) if an additional allowance, or a greater additional allowance, would have been made under sub-paragraph (1) of this paragraph for the year of assessment in which the cessation occurred if the proceeds of sale of the asset had been taken to be the value of the asset, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be allowed in taxing the trade for the year of assessment in which the sale occurs or, if the sale occurs on or after the date on which the trade is permanently discontinued, for the last year of assessment in which the trade is carried on before the discontinuance,
- (b) in any other case, if the proceeds of sale plus the total amount of the allowances made under paragraph 1 above and sub-paragraph (1) of this paragraph in respect of the expenditure exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a trading receipt of the trade accruing at the time of the sale, or, if the sale occurs on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance.

(3) Where an asset is destroyed, it shall for the purposes of sub-paragraph (2) above be treated as if it had been sold immediately before its destruction, and any insurance moneys or other compensation of any description received by the person carrying on the trade in respect of the destruction, and any moneys received by him for the remains of the asset, shall be treated as if they were proceeds of that sale.

(4) Where sub-paragraph (3) above has effect on the demolition of an asset, the cost of the demolition to the person carrying on the trade shall, for the purposes of sub-paragraph (2) above as applied by the said sub-paragraph (3), be added to the scientific research expenditure represented by the asset.

Application of paragraphs 1 and 2 to corporation tax

3.—(1) Paragraphs 1 and 2 above shall apply for the purposes of corporation tax subject to the provisions of this paragraph.

(2) Subject to sub-paragraph (3) below, for any reference in those paragraphs to the basis year for a year of assessment, or to a year

SCH. 10 of assessment, there shall be substituted a reference to an accounting period.

(3) If, in the case of expenditure incurred by a company, the five years of assessment specified in paragraph 1(4) above have not expired at or before the end of the year 1965-66, allowances under the said paragraph 1 shall be made for successive accounting periods without restriction of number, but so that—

- (a) the allowance for an accounting period of less than a year shall be proportionately reduced, and
- (b) the aggregate of the allowances in respect of any expenditure (whether for years of assessment or for accounting periods) shall not exceed the amount of the expenditure.

Limitation of paragraphs 1 and 2 to expenditure, and assets representing expenditure, incurred, or treated as incurred, after 6th April 1946

4.—(1) Subject to the following sub-paragraph, paragraphs 1 and 2 above shall not apply to expenditure, or assets representing expenditure, incurred on or before 6th April 1946.

(2) Where, on or after 1st January 1937 and on or before 6th April 1946, a person has incurred expenditure of a capital nature on scientific research, he shall, except in the case of expenditure represented by an asset which ceased, on or before the latter day, to be used by him for scientific research related to the trade carried on by him, be treated for the purposes of the said paragraphs 1 and 2 as having incurred that expenditure immediately after that day:

Provided that, where that expenditure is represented by an asset it shall be treated as reduced by the aggregate amount of all allowances or deductions made to him in respect of the asset for any year of assessment before the year 1946-47, being either—

- 1937 c. 54. (a) allowances under section 15 of the Finance Act 1937 (mills, factories allowance), or
- 1941 c. 30. (b) allowances under section 19 of the Finance Act 1941 (exceptional depreciation allowance), or
- (c) writing-down allowances within the meaning of Chapter II of Part I of this Act, or
- 1932 c. 25. (d) additional deductions under section 18 of the Finance Act 1932, or under that section as amended by section 22 of the Finance Act 1938 (additional deductions for wear and tear).
- 1938 c. 46.

(3) Any reference in this paragraph to an allowance or deduction made includes a reference to an allowance or deduction which would have been made but for an insufficiency of profits or gains against which to make it.

SCHEDULE 11

Section 96(3).

REPEALS

| Chapter | Short title | Extent of repeal |
|--|-----------------------------|---|
| 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10. | The Income Tax Act 1952. | In Part X, Chapters I, II and III, section 314, the definitions of "forestry land" and "forestry income" in section 315 and Chapter VI. Part XI. Section 482. Section 484(2). Section 527(4)(a). In section 531(2) proviso the words "three hundred and twenty-three, three hundred and thirty-nine" and the words "and under subsection (3) of section four hundred and eighty- two of this Act". Section 531(3). Schedules 12, 14 and 15. In Schedule 22, in Part III, in paragraph 3 the words "I, II, III, and" and the words "or for any of the purposes of Part XI of this Act", paragraphs 4 to 10 and paragraphs 14 and 15. |
| 15 & 16 Geo. 6 & 1 Eliz. 2. c. 33. | The Finance Act 1952. | Sections 19, 20, 21 and 22. In section 24 the words from "under Chapter II" to "plant and". Section 25. Schedule 5. In Schedule 6, Part I, paragraph 18(1) and paragraph 18(2) from the beginning to "Part X and". |
| 1 & 2 Eliz. 2. c. 34. | The Finance Act 1953. | Sections 16, 17 and 18. |
| 2 & 3 Eliz. 2. c. 44. | The Finance Act 1954. | In section 16, subsections (2)(a), (3)(a), (4)(b), (6)(b), (9), (9A), and in subsection (8) the words from "and to amend" to the end of the subsection. Section 20(8). Sections 21 and 23. In Schedule 2 paragraphs 1(4) and 2, and in paragraph 4(1) the words "or the substitution thereof of an initial allow- ance" and paragraphs 6 and 7. |
| 4 & 5 Eliz. 2. c. 54. | The Finance Act 1956. | Sections 16 and 17. |
| 5 & 6 Eliz. 2. c. 49. | The Finance Act 1957. | Sections 16 and 17. Schedules 3 and 4. |

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| Chapter | Short title | Extent of repeal |
|----------------------------|--------------------------------------|---|
| 6 & 7 Eliz. 2. c. 56. | The Finance Act 1958. | Section 15. In Schedule 6, in Table II in Part I the figures "324(1)". |
| 7 & 8 Eliz. 2. c. 58. | The Finance Act 1959. | In section 21 subsection (2) and in subsection (4), paragraph (b) and the words from "except that" to the end of the subsection. In Schedule 4 paragraphs 1 to 4, 5(d), 6, 7 and 8. In Schedule 5 paragraph 3(3). Section 30. |
| 8 & 9 Eliz. 2. c. 44. | The Finance Act 1960. | Sections 23 to 27. |
| 9 & 10 Eliz. 2. c. 36. | The Finance Act 1961. | Section 42. |
| 10 & 11 Eliz. 2. c. 46. | The Transport Act 1962. | Sections 34 and 35. Section 36 except for the words in subsection (1) repealed, with savings, by the Finance Act 1966. Section 37. Sections 40 and 41. Section 42 except for the purposes of sections 33, 38 and 39 (so far as not repealed by the Finance Act 1966). In Schedule 12 paragraph 10 and in paragraph 12 the words "and forestry income". |
| 1963 c. 25. | The Finance Act 1963. | In Schedule 2 the entry relating to section 324 of the Income Tax Act 1952. In Schedule 4, in Part III of the Table the entries relating to sections 299, 307 and 308 of the Income Tax Act 1952, and to Schedule 5 to the Finance Act 1952; and the amendment of section 323(1) of the Income Tax Act 1952. |
| 1964 c. 37. | The Income Tax Management Act 1964. | In Schedule 2 the amendments of sections 335 and 340(4) of the Income Tax Act 1952. Sections 13 and 14. Section 45(2). Section 56. Section 63(2) (3). In Schedule 14— paragraph 1(5), paragraphs 3 and 5, paragraph 6 except for subparagraph (6), paragraphs 7 to 14, in paragraph 15(4) the words from "for the words 'on'" to "1965' and", |
| 1965 c. 4. | The Science and Technology Act 1965. | |
| 1965 c. 25. | The Finance Act 1965. | |

| Chapter | Short title | Extent of repeal |
|-------------|-----------------------|--|
| 1966 c. 18. | The Finance Act 1966. | <p>paragraphs 16 to 19, paragraphs 22 to 24, paragraph 25(c)(d), in paragraph 26 the words from “(and in particular” to the end of the paragraph, paragraph 27(2), In Schedule 15, paragraph 6 as respects section 482 of the Income Tax Act 1952. In Schedule 16, paragraph 8. In section 35, in subsection (1) the words from “and section 21(2)” to “reduced)” and subsections (3), (4) and (5) except for sub- section (5) as applied by section 36(4). Section 37. In Schedule 6 paragraph 11(3) the words “section 56(6) and”. Section 21.</p> |
| 1967 c. 54. | The Finance Act 1967. | <p>Section 21.</p> |

SCHEDULE 12

Section 98(2).

CONSEQUENTIAL AMENDMENTS

General

1.—(1) This Schedule is without prejudice to the provisions of section 98(1) of this Act and the following provisions of this paragraph apply, unless the context otherwise requires, as respects references in any enactment passed before, or in the same Session as, this Act.

(2) Any reference to Part X of the Income Tax Act 1952 shall include a reference to Part I of this Act, and any reference to Chapter I, Chapter II or Chapter III of the said Part X shall include a reference to the whole of Chapter I, Chapter II or Chapter III of Part I of this Act as the case may be. 1952 c. 10.

(3) Any reference to Part XI of the Income Tax Act 1952 shall include a reference to Part II of this Act.

(4) Any reference to allowances and charges within section 56 of the Finance Act 1965 shall be taken as a reference to allowances and charges under this Act (including the enactments which under this Schedule are to be treated as if contained in Part I of this Act). 1965 c. 25.

Maintenance relief for agricultural land

2. Sections 71 and 74 of this Act shall apply as if section 313 of the Income Tax Act 1952 were contained in Part I of this Act.

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Patents

1952 c. 10.

3.—(1) The Income Tax Acts and the Corporation Tax Acts shall have effect as if Chapter V of Part X of the Income Tax Act 1952 and Schedule 13 to that Act were contained in Part I of this Act.

(2) In Chapter VI of Part I of this Act as applied by sub-paragraph (1) above—

- (a) sections 71(1) and 74(1) of this Act shall have effect as if the word “primarily” were omitted, the said section 71 shall have effect as if the proviso to subsection (1) and subsection (2) were omitted and the said section 74 shall have effect as if subsections (3), (4) and (5) were omitted.
- (b) section 75 of this Act shall apply to section 316 of the Income Tax Act 1952 (writing-down allowances for purchase of patent rights) as it applies to sections 61, 67 and 68 of this Act,
- (c) the reference in section 82(1) of this Act to a deduction which falls or may fall to be made under Chapter I of Part VII of the Income Tax Act 1952 does not include a deduction to be so made by virtue of the provisions of the said Chapter V relating to charges on capital sums received for patent rights.
- (d) the sum referred to in paragraph 4(1)(a) of Schedule 7 to this Act is, in the case of patent rights, the amount of any capital expenditure on the acquisition thereof remaining unallowed computed in accordance with the provisions of section 317 of the Income Tax Act 1952.

(3) For the purposes of corporation tax, where a balancing charge falls to be made on a company under section 317 of the Income Tax Act 1952 (lapse of patent rights, sales, etc.) section 321(2) of that Act shall have effect as if it required the amount on which the charge is to be made to be treated as income from patents (instead of being charged under Case VI of Schedule D).

(4) In the said Chapter V “the appointed day” means 6th April 1946.

Business or estate management expenditure

1960 c. 44.

4.—(1) Without prejudice to the provisions of section 98(2) of this Act, Part I of this Act has effect subject to section 72 of the Finance Act 1960, and accordingly section 46 of this Act does not apply to allowances or charges falling to be made by virtue of the said section 72.

(2) In relation to allowances falling to be made by virtue of section 72(2)(a) of the Finance Act 1960 (business management expenditure) section 74(1) of this Act (but not the remainder of that section) shall have effect as if any such allowances were to be made by way of discharge or repayment of tax and to be available against income of the business referred to in the said section 72(2)(a), and as if the word “primarily” were omitted.

(3) Effect shall be given to any charge falling to be made by virtue of the said section 72(2)(a) by treating the amount on which the charge is to be made as income of the business referred to in the said section 72(2)(a). SCH. 12

(4) In section 72(8) of the Finance Act 1960 (exclusion of double allowances) for the words "on a management expenses claim" where first occurring there shall be substituted "under paragraph 4 of Schedule 12 to the Capital Allowances Act 1968" (instead of the amendment made by paragraph 15(4) of Schedule 14 to the Finance Act 1965). 1960 c. 44.
1965 c. 25.

Transitory: investment allowances

5.—(1) This paragraph has effect as respects section 16 of the Finance Act 1954 and the other enactments relating to investment allowances which were repealed by Part IV of Schedule 13 to the Finance Act 1966 so far as they remain in force by virtue of the savings at the end of the said Part IV. 1954 c. 44.
1966 c. 18.

(2) Notwithstanding the provisions of the enactments mentioned in sub-paragraph (1) above which apply to investment allowances the provisions of the Income Tax Acts and the Corporation Tax Acts applicable to initial allowances and allowances under section 336 of the Income Tax Act 1952 (which is re-enacted in section 91 of this Act), the following references in this Act (whether explicit or implicit) to such allowances shall not apply to investment allowances, that is— 1952 c. 10.

- (a) the references to initial allowances in sections 1(2), 3(6), 4(2), 18(2), 20 to 41, 56(2), 57(6) and 75(2) and Schedules 1 and 7;
- (b) the reference to an initial allowance in section 67(1) in so far as it relates to the rate of allowance, and the reference to allowances in section 67(2);
- (c) the references to scientific research allowances in Chapters I and II of Part I;
- (d) the references in section 92 to allowances under section 91, and the references in paragraph 2 of Schedule 10 to allowances under paragraph 1 of that Schedule.

(3) Section 83 of this Act shall apply to investment allowances as it applies to initial allowances under sections 1, 18 and 56 of this Act.

(4) In a case of expenditure incurred before 8th April 1959 (that is to say a case where the rate of any initial allowance under this Act is by virtue of paragraph 5 of Schedule 1 to this Act to be determined as if this Act had not passed) the enactments mentioned in sub-paragraph (1) above, and their references to provisions repealed by this Act, shall be construed as if this Act had not passed.

SCH. 12 (5) Subject to sub-paragraph (4) above, in the enactments mentioned in sub-paragraph (1) above for references to any of the enactments repealed by this Act there shall be substituted references to provisions of this Act in accordance with the Table below.

TABLE

| | <i>Enactment repealed</i> | <i>Corresponding provision of this Act</i> |
|-------------|---|---|
| 1952 c. 10. | Income Tax Act 1952 Section 314 336 | Section 68 91 and paragraph 1 of Schedule 10. |
| | Schedule 14 | Schedule 7 |
| 1956 c. 54. | Finance Act 1956 Section 17 | Section 67 |

Transitory : free depreciation in development districts

1963 c. 25. 6. In sections 38 and 39 of the Finance Act 1963 (free depreciation in development districts), which were repealed by Part V of Schedule 13 to the Finance Act 1966, so far as in force by virtue of the savings at the end of the said Part V, for references to any of the enactments repealed by this Act there shall be substituted references to provisions of this Act in accordance with the Table below.

1966 c. 18.

TABLE

| | <i>Enactment repealed</i> | <i>Corresponding provision of this Act</i> |
|--|---|---|
| | Income Tax Act 1952 Section 271(3) 271(5) 281 282 284 285 299 307 307(3) 309(2) | Section 7(3) 7(5) 20 21 23 24 43 57 57(4) 59 |
| | Finance Act 1963 Section 35 | Sections 20 and 21 |



Erskine Bridge Tolls Act 1968

1968 CHAPTER 4

An Act to empower the Secretary of State to levy tolls in respect of the use of a new road which crosses the River Clyde at Erskine and of certain roads provided in connection therewith ; to enable the Secretary of State to provide parking places in connection with those roads and, in relation to those roads, to impose prohibitions, restrictions and other requirements for the purpose of preventing obstruction and for the protection of property and otherwise; and for connected purposes.

[15th February 1968]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the tolls hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen'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:—

Tolls

1.—(1) The Secretary of State shall have power, subject to and in accordance with the following provisions of this Act, to levy tolls in respect of vehicles using the specified roads. Power to levy tolls for use of specified roads.

(2) In the following provisions of this Act "toll" means a toll leviable under this Act.

(3) In this Act " the specified roads " means—

- S.I. 1966
No. 1486.
- (a) the roads (including the bridge) whose provision is authorised by the Erskine Bridge Trunk Roads Order 1966 ;
- S.I. 1967
No. 1591.
- (b) the lengths of trunk roads authorised by the Erskine Bridge Trunk Roads (No. 2) Order 1967 which continue in a southerly direction from the roads mentioned in the foregoing paragraph and in an easterly and westerly direction until the points where they join respectively with the roads whose provision is authorised by the Erskine Bridge (Connecting Roads) Special Roads Scheme 1967 ; and
- S.I. 1967
No. 1590.
- (c) the length of special road, whose provision is authorised by the Erskine Bridge Special Road Scheme 1967, from its most northerly point to the point where it joins with the roads last mentioned in the last foregoing paragraph ;
- S.I. 1967
No. 1589.

and any reference to the specified roads includes a reference to any part thereof.

(4) In this section any reference to an order or scheme includes a reference thereto as varied or amended by any subsequent order or scheme whether made before or after the passing of this Act.

Orders
relating to
tolls.

2.—(1) The Secretary of State may by order make provision as to the classes of vehicles using the specified roads in respect of which the tolls are to be levied, and as to the scales and other provisions in accordance with which they are to be levied.

(2) Any such scales or other provisions may provide for tolls to be levied at different rates by reference to such circumstances or combination of circumstances (whether relating to classes of vehicles, seasons of the year, days of the week, times of day or otherwise) as the Secretary of State may consider appropriate.

(3) Provision may be made by any such order for enabling persons to compound in advance for the payment of tolls, at such rates as may be specified in the order ; and any such provision may include provision for the issue of season tickets or prepaid vouchers to persons so compounding.

(4) An order under this section may provide that vehicles of any description specified in that behalf in the order (notwithstanding that they are vehicles of a class specified in the order in pursuance of subsection (1) of this section) shall be exempted from the payment of tolls.

3.—(1) Where the Secretary of State proposes to make an order under section 2 of this Act, he shall prepare a draft of the order and shall publish in at least one local newspaper circulating in the locality in which the northern end of the specified roads is situated, and in at least one local newspaper circulating in the locality in which the southern end of the specified roads is situated, and in the Edinburgh Gazette, a notice—

Procedure for making orders under section 2.

- (a) stating the general effect of the proposed order ;
- (b) naming a place or places in each of those localities where, at all reasonable hours during the period of six weeks from the date of first publication of the notice, a copy of the draft order may be inspected by any person free of charge ; and
- (c) stating that, within the period beginning with the date of first publication of the notice and ending six weeks after the latest date of publication of the notice, any person may by notice in writing to the Secretary of State object to the making of the order.

(2) Not later than the date of first publication of that notice, the Secretary of State shall serve a copy of the notice and of the draft order on each of the county councils.

(3) If, within six weeks from the latest date of publication of the notice, any objection to the proposed order is received by the Secretary of State and the objection is not withdrawn, then—

- (a) if the objection is from either of the county councils, from any other local authority in Scotland or from any such organisation or other body as is mentioned in Schedule 1 to this Act, the Secretary of State shall cause a local inquiry to be held ;
- (b) in the case of any objection not falling within the foregoing paragraph, the Secretary of State may cause a local inquiry to be held if he thinks fit.

(4) After considering any objections to the proposed order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make the order either without modification or subject to such modifications as he thinks fit.

(5) As soon as may be after an order under section 2 of this Act has been made, the Secretary of State shall—

- (a) publish, in the manner specified in subsection (1) of this section, a notice stating that the order has been made and naming a place or places in each of the

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localities so specified where a copy of the order may be inspected by any person free of charge at all reasonable hours, and

(b) serve a copy of the order on each of the county councils.

1947 c. 43.

(6) The provisions of subsections (2) to (9) of section 355 of the Local Government (Scotland) Act 1947 (which relate to local inquiries) shall have effect with respect to any inquiry held in pursuance of this section.

(7) In this section "the county councils" means the councils of the counties of Dunbarton and Renfrew respectively; "local authority" means any county, town or district council in Scotland; any reference to the date of first publication of a notice is a reference to the date on which it is first published, in accordance with subsection (1) of this section, in a newspaper other than the *Edinburgh Gazette*; and any reference to the latest date of publication of a notice is a reference to the date, or (if more than one) the latest date, on which it is published by the Secretary of State in accordance with that subsection.

General
limitations
on power to
levy tolls.

4.—(1) Subject to the following provisions of this section, the power to levy tolls shall cease to be exercisable at the end of the period of twenty years beginning with the date on which the specified roads become open for use by traffic.

(2) In the exercise of his powers under section 2 of this Act the Secretary of State, so far as practicable, having regard to the utility of specifying scales of tolls in convenient units of currency, shall not specify scales of tolls exceeding those which in his opinion would be requisite to secure that, taking one year with another, the revenue produced by the tolls during the toll period, if applied for the purposes mentioned in Schedule 2 to this Act, would be sufficient, but not more than sufficient, for those purposes.

(3) If at any time during the period specified in subsection (1) of this section (or during that period as extended by a previous order under this section) it appears to the Secretary of State that the aggregate revenue produced by the tolls is likely to fall short of what would be required for the purposes mentioned in that Schedule, the Secretary of State may by order direct that the period shall be extended, or (as the case may be) further extended, by five years.

(4) An order under this section shall be of no effect unless it is approved by a resolution of the Commons House of Parliament.

(5) In Schedule 2 to this Act any reference to interest is a reference to interest at such rate as may be determined to be appropriate in accordance with any directions given in that behalf by the Treasury; and different rates may be so determined in relation to all or any of the following matters, that is to say, different times, different paragraphs of that Schedule, and different expenses referred to in any of those paragraphs.

(6) In this section and in Schedule 2 to this Act "the toll period" means the period specified in subsection (1) of this section, or, if one or more orders under this section have come into operation, means that period as extended by that order or those orders, as the case may be; and in section 9 of and Schedule 2 to this Act "the relevant works" means—

- (a) the specified roads and any space for accommodating vehicles or parking place provided in connection with those roads, and
- (b) any structure, building, works or apparatus on, under or over those roads, spaces or places or used in connection with the regulation of traffic on those roads or in connection with the levying of tolls or with the maintenance of those roads.

5.—(1) Provision may be made by regulations made by the Secretary of State under this section—

Regulations for securing payment of tolls.

- (a) for the designation of one or more places on or near the specified roads at which tolls (other than tolls previously compounded for) are to be paid;
- (b) as to the persons by whom such tolls are to be paid, and the manner in which they are to be paid, whether by paying them to a person authorised to receive them or by placing coins in apparatus provided for the purpose or otherwise;
- (c) for securing that vehicles in respect of which tolls are leviable do not use the specified roads without payment of the tolls.

(2) In relation to vehicles using the specified roads and approaching a place designated in accordance with paragraph (a) of the preceding subsection, regulations made in pursuance of paragraph (c) of that subsection may include provisions for prohibiting or otherwise preventing any such vehicle from further proceeding along the specified roads until any toll leviable in respect of the vehicle has been paid.

(3) Any such regulations may provide that, if tickets or receipts are issued to persons paying tolls, the person in charge of a vehicle in respect of which any such ticket or receipt has been issued shall, at any time when the vehicle is using the

specified roads, produce the ticket or receipt, on being required to do so, for inspection by any person designated by or under the regulations.

(4) Regulations under this section may include such provisions as the Secretary of State may consider appropriate for adapting or modifying the general provisions of the regulations in relation to vehicles in respect of which tolls have been compounded for, including provisions as to the production and surrender of season tickets or prepaid vouchers.

(5) Any regulations made under this section shall provide for a notice, specifying the classes of vehicles in respect of which tolls are leviable, and the scales and other provisions for the time being in force in accordance with which they are leviable, to be displayed at each place designated in accordance with subsection (1)(a) of this section.

Temporary
suspension
or reduction
of tolls.

6.—(1) At any time while an order under section 2 of this Act (in this section referred to as "the principal order") is in force, the Secretary of State, subject to the following provisions of this section, may make an order providing that, during such period, not exceeding eighteen months, as may be specified in the order under this section, the tolls leviable in accordance with the principal order shall be suspended, or shall be reduced to such extent as may be specified in the order under this section.

(2) An order under this section may provide for suspension or reduction of tolls either generally or by reference to any circumstances, or combination of circumstances, as mentioned in section 2(2) of this Act; and, in so far as the suspension or reduction is in respect of a particular class of vehicles, that class may be a class corresponding with one of those specified in the principal order or not, as the Secretary of State may consider appropriate.

(3) Not less than fourteen days before making an order under this section, the Secretary of State shall give public notice of his intention to do so.

(4) Without prejudice to the preceding provisions of this section, at any time when, by reason of any accident or other emergency, it appears to the Secretary of State to be necessary to do so, he may direct that the tolls shall cease to be leviable—

(a) either during a period specified in the direction or until the direction is revoked by a further direction given by the Secretary of State, and

- (b) either in respect of all vehicles using the specified roads or in respect only of vehicles using them for travelling from north to south, or from south to north, as may be specified in the direction.

(5) Nothing in this section shall affect any power to vary or revoke an order under section 2 of this Act.

Prevention of obstruction and damage

7.—(1) For the purpose of preventing obstruction of the specified roads, the Secretary of State may make regulations under this section— Removal of stationary vehicles.

- (a) prohibiting vehicles from stopping or remaining at rest on those roads except in such circumstances as may be specified in the regulations, and
- (b) making such provision as is mentioned in the following provisions of this section with respect to vehicles which, either in contravention of the regulations or in such circumstances to which subsection (2) of this section applies as may be specified in the regulations, are for the time being at rest on those roads.

(2) The circumstances to which this subsection applies, in relation to any vehicle, are any circumstances in which—

- (a) it is necessary for the vehicle to remain at rest by reason of breakdown, or
- (b) no person is for the time being in charge of the vehicle or the person in charge of it is not present in or on the vehicle.

(3) Regulations made under this section may require the person (if any) in charge of any vehicle which is at rest on the specified roads in circumstances falling within paragraph (a) of the last preceding subsection to take such steps as may be specified in the regulations for reporting that fact and the position and circumstances in which the vehicle is at rest.

(4) Regulations made under this section may prohibit any person, other than a person authorised as mentioned in subsection (5)(a) of this section,—

- (a) from carrying out, or attempting to carry out, any repair or adjustment of any such vehicle as is mentioned in the last preceding subsection except with permission expressly given by a person so authorised, and

(b) from moving, or attempting to move, any such vehicle from the position in which it is at rest ;

and the regulations may prohibit persons so authorised from carrying out, or attempting to carry out, any repair or adjustment of any such vehicle except in such circumstances as may be specified in the regulations.

(5) Regulations under this section—

(a) may include provision for empowering any person authorised in that behalf by or under the regulations to remove any such vehicle as is mentioned in subsection (1)(b) of this section from its position on the specified roads either—

(i) to another position on those roads, or

(ii) to any space provided by the Secretary of State in the vicinity of those roads for accommodating such vehicles, or

(iii) with the consent of the person in charge of the vehicle, to the premises of any person operating such a service as is mentioned in section 10 of this Act ;

(b) in the case of any such vehicle which is so removed, or which at the request of the person in charge of it is repaired or adjusted (instead of being removed) by a person so authorised, may include provision for requiring such person as may be prescribed by the regulations to pay, to the person effecting the removal, repair or adjustment, a charge of an amount to be determined in accordance with such scales and other provisions as may be contained in the regulations ; and

(c) may prohibit any person from obstructing any action taken by a person authorised as mentioned in paragraph (a) of this subsection for the purpose of removing any such vehicle from, or to another position on, the specified roads.

(6) Different provision may be made under this section in relation to different classes of vehicles and in relation to different circumstances.

(7) Regulations under this section shall be without prejudice to the exercise by police or traffic wardens of any functions in connection with the control and regulation of road traffic or with the enforcement of the law relating to road traffic.

(8) In this section “breakdown”, in relation to a vehicle, includes mechanical defect, lack of fuel, oil or water required for the vehicle, and any other circumstances in which a person

in charge of the vehicle could not immediately, safely, and without damage to the vehicle or its accessories, drive it under its own power along the specified roads to a point beyond those roads.

8.—(1) In relation to the specified roads, the power conferred by section 12(2) of the Road Traffic Regulation Act 1967 (temporary prohibition or restriction of traffic on roads) shall be exercisable either— Special traffic restrictions on specified roads. 1967 c. 76.

(a) as mentioned in that subsection (that is to say, by notice given by the Secretary of State as highway authority), or

(b) by any person authorised in that behalf by the Secretary of State,

and may be exercised in relation to any particular vehicle.

(2) Where that power is exercised in accordance with paragraph (b) of the preceding subsection, it may be exercised either by notice or by such other means as the person exercising the power considers appropriate for communicating the prohibition or restriction to persons affected by it; and subsection (3) of the said section 12 shall apply in relation to any such communication, other than a notice, as it applies in relation to a notice given under subsection (2) of that section.

(3) Section 1(7) of the Road Traffic Regulation Act 1967 (disapplication of that section to special roads) shall not apply in relation to the length of special road comprised in the specified roads.

9. The Secretary of State may by regulations impose such prohibitions and restrictions as he may consider necessary for preventing damage to the relevant works or for preventing notices and signs placed on or near the relevant works in connection with the regulation of traffic or the levying of tolls from being removed, defaced or obscured. Prevention of damage.

Supplementary provisions

10. The Secretary of State may make such arrangements as he may consider appropriate with any person for securing the operation by that person of a service of removing such vehicles as are mentioned in section 7(1)(b) of this Act from, or to another position on, the specified roads, or, if he thinks fit, may himself provide such a service. Provision of removal service.

11. Any person who—

(a) wilfully refuses, or without reasonable excuse neglects or fails, to pay a toll which he is required to pay under this Act, or wilfully avoids payment of any such toll, or

Offences.

- (b) wilfully and with intent to defraud claims or takes the benefit of any exemption from the tolls (whether the exemption in question subsists by virtue of section 2(4) of this Act or otherwise) without being entitled to that benefit, or
- (c) in circumstances not falling within either of the preceding paragraphs, contravenes any regulations made under this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

Provisions
as to land
and works.
1946 c. 30.
1949 c. 32.

12.—(1) Without prejudice to the generality of any powers conferred by or under the Trunk Roads Act 1946 or the Special Roads Act 1949, the Secretary of State shall have power to provide and maintain—

- (a) such structures, buildings, works and apparatus on or near the specified roads as he may consider necessary or expedient in connection with the levying of tolls or with the maintenance of those roads ;
- (b) such parking places for vehicles as he may consider necessary or expedient in connection with use of the specified roads ;
- (c) if in the opinion of the Secretary of State it is required, a space in the vicinity of the specified roads for accommodating vehicles which have been removed from those roads in pursuance of section 7 of this Act.

1947 c. 42.

(2) For the purpose of the exercise of the powers conferred by the foregoing subsection the Secretary of State may acquire land by agreement or compulsorily, and in relation to the compulsory acquisition of land under this section the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if this Act had been in force immediately before the commencement of that Act and as if section 1(1)(b) of that Act included a reference to the Secretary of State.

In this subsection “land” includes any right or interest in or over land.

1963 c. 51.
1949 c. 42.

(3) Where a dispute arises as to the compensation payable in respect of a compulsory purchase under this section it shall be determined by the Lands Tribunal for Scotland in accordance with the Land Compensation (Scotland) Act 1963, but until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, any such dispute shall be determined by an official arbiter appointed under Part I of the said Act of 1963.

13.—(1) A county council may enter into an agreement with the Secretary of State whereby the council will, as agents of the Secretary of State, perform such services and provide such facilities as may be specified in the agreement in connection with the levying of tolls or the operation of parking places provided under section 12 above; and, if any such agreement is made, the county council may perform those services and provide those facilities accordingly.

(2) A county council may enter into an agreement with the Secretary of State for the operation of such a service as is mentioned in section 10 of this Act; and, if any such agreement is made, the council may operate such a service and provide any facilities required in connection with it.

(3) Any such agreement as is mentioned in either of the preceding subsections may contain such terms and conditions (whether as to payment or otherwise) as the Secretary of State and the county council may consider appropriate.

(4) In this section “county council” means the council of the county of Dunbarton or of the county of Renfrew.

14.—(1) Subject to subsection (3) of this section, the provisions mentioned in the next following subsection shall have effect in relation to—

- (a) vehicles belonging to, or used for the purposes of, a government department, and
- (b) things done, or omitted to be done, in connection with such vehicles by persons in the public service of the Crown,

as they have effect in relation to vehicles which neither belong to nor are used for any purposes of the Crown and to persons who are not in the public service of the Crown.

(2) The provisions referred to in the preceding subsection are—

- (a) section 7 of this Act and any regulations made under that section;
- (b) subsections (1) and (2) of section 8 of this Act; and
- (c) section 11 of this Act in so far as it relates to contravention of any regulations made under section 7 of this Act.

(3) Regulations made under section 7 of this Act may provide that, in their application in relation to—

- (a) vehicles belonging to the Crown and used for naval, military or air force purposes, and
- (b) vehicles used for the purposes of any such body, contingent or detachment of the forces of any country as

is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952, or used for the purposes of any headquarters or organisation designated by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964,

1952 c. 67.

1964 c. 5.

the regulations shall have effect subject to such exceptions and modifications as may be specified in the regulations.

(4) Nothing in this Act or in any order made thereunder shall be construed—

(a) as derogating from any exemption or immunity conferred by any enactment not contained in this Act, or

(b) as implying that any enactment contained in this Act binds the Crown,

except as provided by the preceding provisions of this section.

(5) In this section “government department” includes any Minister of the Crown.

Orders and regulations.

15.—(1) Any power conferred by this Act to make an order shall be exercisable by statutory instrument, and shall include power to vary or revoke the order by a subsequent order.

(2) Any instrument containing an order made under section 2 or section 6 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power to make regulations under this Act shall be exercisable by statutory instrument; and any instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Financial provisions.

16.—(1) Any sums paid to any person in respect of tolls shall be taken to be received by that person on behalf of the Secretary of State; and all such sums, and any other receipts of the Secretary of State under this Act, shall be paid into the Exchequer.

(2) Any expenses incurred by the Secretary of State in consequence of the provisions of this Act shall be paid out of moneys provided by Parliament.

Annual accounts.

17.—(1) The Secretary of State shall, in respect of each financial year during which tolls are levied or are suspended by virtue of an order made under section 6 of this Act, prepare a statement of accounts in such form, and containing such particulars, compiled in such manner, as the Treasury may from

time to time direct having regard to the provisions of section 4 of this Act.

(2) Any statement of accounts prepared under this section shall be sent by the Secretary of State to the Comptroller and Auditor General not later than the end of the month of November following the end of the financial year to which the statement relates; and the Comptroller and Auditor General shall examine and certify the statement and shall lay copies of it, together with his report thereon, before Parliament.

18.—(1) Unless the context otherwise requires references in this Act to any enactment are references to that enactment as amended or extended by or under any subsequent enactment.

Interpretation
and short
title.

(2) This Act may be cited as the Erskine Bridge Tolls Act 1968.

SCHEDULES**Section 3.****SCHEDULE 1****BODIES TO WHICH SECTION 3(3) APPLIES**

1960 c. 16.

1. Any organisation appearing to the Secretary of State to represent to a substantial extent the interests of the general body of owners of mechanically propelled vehicles in Scotland who are not holders of licences under Part III of the Road Traffic Act 1960 or of A licences or B licences under Part IV of that Act.

2. Any organisation appearing to the Secretary of State to represent to a substantial extent the interests of the general body of persons carrying on road transport undertakings in Scotland.

3. In the case of any particular order proposed to be made under section 2 of this Act, any organisation (not falling within either of the preceding paragraphs) which appears to the Secretary of State to represent to a substantial extent the interests of owners in Scotland of a class of vehicles specified, in pursuance of subsection (1) of that section, in the order as prepared in draft.

4. Any organisation appearing to the Secretary of State to represent to a substantial extent the interests of persons engaged in a particular profession, trade or employment who, by reason of that profession, trade or employment, are likely to be frequent users of the specified roads.

5. Any organisation appearing to the Secretary of State to represent to a substantial extent the interests of persons carrying on industrial or commercial undertakings in Scotland generally, or in the locality in which either end of the specified roads is situated in particular, whose vehicles used for the purposes of those undertakings are likely to be frequent users of the specified roads.

6. Any organisation appearing to the Secretary of State to represent to a substantial extent the interests of persons residing in the locality in which either end of the specified roads is situated.

7. Any body corporate appearing to the Secretary of State to have a substantial interest in the use of the specified roads by reason of its operating a number of vehicles which are likely to be frequent users of those roads.

Section 4.**SCHEDULE 2****PURPOSES RELEVANT TO GENERAL LIMITATIONS ON TOLLS**

1. Reimbursement with interest of all expenses properly chargeable to capital account which have before the passing of this Act been, or may after the passing of this Act be, incurred by the Secretary of State in providing the relevant works.

2. Reimbursement with interest of all expenses properly chargeable to capital account which may after the passing of this Act, but before

the end of the period specified in subsection (1) of section 4 of this Act, be incurred by the Secretary of State in providing additions to, or improvements of, the relevant works.

3. Defraying all expenses (including administrative expenses) which are properly chargeable to revenue account and are incurred during the toll period by the Secretary of State or by any other Minister of the Crown or government department in, or in connection with, the maintenance, repair or renewal of the relevant works, or of any such addition or improvement as is mentioned in paragraph 2 of this Schedule, or the operation during the toll period of services or facilities provided by the Secretary of State in connection with the relevant works or any such addition or improvement.

4. Making such provision as in the opinion of the Secretary of State is adequate for defraying the expenses properly chargeable to revenue account which are likely to be incurred in, or in connection with, continuing after the end of the toll period to maintain, repair and renew the relevant works and any such addition or improvement and continuing after the end of that period to operate services or facilities provided by the Secretary of State in connection with the relevant works or any such addition or improvement.

5. Making such provision as in the opinion of the Secretary of State is equivalent to that which would be required for keeping the relevant works and any such addition or improvement insured (both during and after the toll period) if they were owned and maintained by a commercial undertaking.

6. Defraying all expenses (not falling within any of the preceding paragraphs) which are incurred by the Secretary of State in consequence of the provisions of this Act.

7. Provision for interest on any deficiency which may arise during the toll period in the revenue produced by the tolls as compared with the amounts required to be raised by the tolls for fulfilling the purposes specified in paragraphs 1 to 6 of this Schedule.



Administration of Justice Act 1968

1968 CHAPTER 5

An Act to make provision with respect to the maximum numbers of Lords of Appeal in Ordinary and certain other judges. [15th February 1968]

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

Maximum numbers of Lords of Appeal in Ordinary and certain other judges.

1.—(1) The maximum number—

(a) of Lords of Appeal in Ordinary shall be eleven;

(b) in England and Wales—

(i) of ordinary judges of the Court of Appeal shall be thirteen;

(ii) of puisne judges of the High Court shall be seventy;

(iii) of county court judges shall be ninety-seven;

(c) in Scotland, of judges of the Court of Session shall be nineteen;

(d) in Northern Ireland, of puisne judges of the High Court shall be four.

(2) Her Majesty may by Order in Council from time to time amend the foregoing subsection so as to increase or further increase the maximum number of appointments which may be made to any of the offices therein mentioned.

(3) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

(4) There shall be paid out of the Consolidated Fund, or out of moneys provided by Parliament, any increase attributable to the provisions of this Act in the sums which, under any other enactment, are payable out of that Fund, or out of moneys so provided, as the case may be.

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

(6) In paragraph 1(1) of Part II of Schedule 7 to the Govern- 1920 c. 67.
ment of Ireland Act 1920 (which provides that the High Court in Northern Ireland shall consist of the Lord Chief Justice of Northern Ireland and two puisne judges), after the word " and " there shall be inserted the words " not less than ".

2. This Act may be cited as the Administration of Justice Short title.
Act 1968.

Section 1.

SCHEDULE

REPEALS

| Chapter | Short title | Extent of Repeal |
|-------------------------------|---|--|
| 39 & 40 Vict. c. 59. | The Appellate Jurisdiction Act 1876. | In section 6, the word "two" where it first occurs. Section 14, so far as unrepealed. |
| 3 & 4 Geo. 5. c. 21. | The Appellate Jurisdiction Act 1913. | The whole Act, so far as unrepealed. |
| 10 & 11 Geo. 5. c. 67. | The Government of Ireland Act 1920. | In Part II of Schedule 7, in paragraph 1(1), the words "three judges, namely"; and paragraph 1(2). |
| 15 & 16 Geo. 5. c. 49. | The Supreme Court of Judicature (Consolidation) Act 1925. | In section 2(1), the words "nor more than sixty-three". In section 6(1), the words "nor more than eleven". |
| 19 & 20 Geo. 5. c. 8. | The Appellate Jurisdiction Act 1929. | Section 2. |
| 10 & 11 Geo. 6. c. 11. | The Appellate Jurisdiction Act 1947. | Section 1, except so much of the proviso to subsection (1) as follows the words "Provided that". |
| 12, 13 & 14 Geo. 6. c. 10. | The Administration of Justice (Scotland) Act 1948. | Section 1, except so much of the proviso to subsection (1) as follows the words "Provided that". |
| 4 & 5 Eliz. 2. c. 68. | The Restrictive Trade Practices Act 1956. | Section 32, so far as unrepealed. |
| 7 & 8 Eliz. 2. c. 22. | The County Courts Act 1959. | Section 35(2). |
| 9 & 10 Eliz. 2. c. 3. | The Administration of Justice (Judges and Pensions) Act 1960. | In section 4(1), the words from "but" onwards. |
| 1963 c. 39. | The Administration of Justice (Judges and Pensions) Act 1960. | In section 1(2), the words "nor more than eleven". |
| 1964 c. 39. | The Criminal Justice (Scotland) Act 1963. | In Part I of Schedule 2, the words "nor more than eleven". |
| 1964 c. 42. | The Administration of Justice Act 1964. | Section 49. Section 54(2). |
| 1964 c. 58. | The Resale Prices Act 1964. | In section 5(2), the words from "limit" to "total" and the words from "shall be" to "judges". |
| 1965 c. 61. | The Judges Remuneration Act 1965. | In Schedule 3, paragraph 25(1). Section 9, so far as unrepealed. Section 10(2). |
| | | Section 3. In Schedule 2, in the entry relating to the Supreme Court of Judicature (Consolidation) Act 1925, the words "nor more than sixty-three". |



Trustee Savings Banks Act 1968

1968 CHAPTER 6

An Act to amend the law relating to trustee savings banks.
[15th February 1968]

BE IT ENACTED by the Queen'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 maximum rate of interest which may be fixed by order of the Treasury under section 27(2) of the Trustee Savings Banks Act 1954 (in this Act referred to as "the principal Act") as the rate at which interest is to be paid or credited on sums standing to the credit of trustee savings banks in the Fund for the Banks for Savings shall be £3 13s. 0d. per cent., instead of £3 2s. 6d. per cent. as provided by section 1(1) of the Trustee Savings Banks Act 1958 (in this Act referred to as "the Act of 1958").

Increase of maximum rate of interest on ordinary deposits

2.—(1) The National Debt Commissioners may make to a trustee savings bank advances out of the Fund for the Banks for Savings in order to meet expenditure incurred by the bank in purchasing land or erecting buildings for the purpose of the bank or any expenditure of a capital nature incurred by the bank—

Financing of capital expenditure for bank purposes.

(a) on the doing of work to land or buildings provided for the said purpose; or

(b) in the acquisition of equipment or machinery required for the conduct of the business of the bank.

(2) Advances made by virtue of this section shall be on such terms and for such period as the Commissioners may with the approval of the Treasury direct, but the total of the advances so made shall not exceed £10 million.

(3) Any expenditure incurred by a trustee savings bank in the acquisition of equipment or machinery required for the conduct of the business of the bank, being expenditure of a capital nature,

may be defrayed in the same manner as the cost of purchasing land may be defrayed under section 4(1) of the Act of 1958 (which authorises the application of surplus assets derived from ordinary deposits, advances and grants from other banks and other specified funds).

Banks' power
of investment.

1961 c. 62.

3.—(1) The trustees of a trustee savings bank may, subject to regulations made by the Treasury and to the powers of control conferred on the National Debt Commissioners by section 40 of the principal Act, invest moneys received for special investment in any such manner for the time being specified in Part II of Schedule 1 to the Trustee Investments Act 1961 as may be specified in the regulations.

(2) Without prejudice to the foregoing provision—

(a) the trustees of a trustee savings bank may, subject to regulations so made and to the Commissioners' said powers of control, invest moneys so received in any securities of which principal and interest are charged on the Consolidated Fund of the United Kingdom or of Northern Ireland, whether directly or by virtue of any guarantee, notwithstanding that the securities are excluded from Part II of Schedule 1 to the Trustee Investments Act 1961 by the operation of paragraph 2 of Part IV of that Schedule; and

(b) the trustees of a trustee savings bank in the island of Jersey or Guernsey may, subject as aforesaid, invest moneys so received in any security issued by the States of that island on which principal and interest are charged on the general revenues of the States.

(3) As from the date on which regulations under this section first come into force, section 2(1) of the Act of 1958 and Schedule 1 to that Act (which provide a narrower power of investment, confining it mainly to British Government and local authority securities) shall cease to have effect; but nothing in this section shall apply to or affect any investment made before that date, or any investment previously made in the exercise of powers conferred by the said section 2 or section 41 of the principal Act.

(4) Moneys received for special investment shall not be invested except in accordance with this section or section 2(2) and (3) of the Act of 1958 (which enable a bank's trustees to transfer such moneys to another trustee savings bank for investment or to place them on deposit or current account with a bank other than a savings bank), or section 2(1) of that Act so long as it remains in force.

(5) The provisions of this section shall be taken to apply to the investment of any moneys forming part of the assets held by a bank on account of special investments.

(6) The power of the Treasury to make regulations for the purposes of this section shall be exercisable by statutory instrument and a draft of any statutory instrument made in the exercise of the power shall be laid before Parliament.

4. Section 26(2) of the principal Act (under which money invested by the trustees of a trustee savings bank in accordance with section 25 of that Act is to be paid into the Fund for the Banks for Savings) shall have effect without the proviso (which prevents the payment of sums less than £50 and requires, before payment, the production to the National Debt Commissioners of a declaration that the money belongs exclusively to the paying bank and also a supporting order by a bank trustee.) Removal of restrictions as to payment of money to Commissioners for investment.

5.—(1) The account made out annually by the National Debt Commissioners in accordance with section 34 of the principal Act (interest accrued in the Fund for the Banks for Savings against interest credited to banks) and the statement prepared by them in accordance with section 37 of that Act (Government liabilities to banks and securities held to meet them) shall be in such form respectively as the Treasury may direct. Commissioners' accounts etc.

(2) The said account and statement and also the account prepared by the Commissioners in accordance with section 71 of the principal Act (general account with respect to trustee savings banks) shall, not later than 31st May in each year, be transmitted to the Comptroller and Auditor General, who shall examine, certify and report thereon and lay copies of them, together with copies of his report, before each House of Parliament.

(3) In section 36(1) of the principal Act (payment to Exchequer of any balance in the Fund for the Banks for Savings after crediting banks with interest and allowing for depreciation and expenses) the words "within three months after the account is laid before Parliament" shall be omitted.

(4) This section applies to accounts and statements in respect of the year ending 20th November, 1967 and every subsequent year.

6. The directions which may be given by the National Debt Commissioners to a trustee savings bank under section 40(1) of the principal Act with respect to the bank's business of making special investments include directions as to the manner in which the total expenses of management are to be apportioned in the bank's accounts as between the business of making such investments and the handling of ordinary deposits. Control of banks' apportionment of management costs.

Service with Savings Banks Institute to be reckoned for superannuation.

7.—(1) In section 67 of the principal Act (which allows service in any trustee savings bank institution to count for superannuation in favour of a person pensionable as an officer of a trustee savings bank or the Inspection Committee) the expression “trustee savings bank service” shall include service as an officer of the Savings Banks Institute and the Institute shall be treated for purposes of that section as a savings bank institution; and accordingly in that section—

- (a) for the words “or the Association”, where they occur for the first time in subsection (1), there shall be substituted the words “the Association or the Savings Banks Institute (hereafter in this section called ‘the Institute’)”;
- (b) for those words wherever else they occur in the section there shall be substituted the words “the Association or the Institute”;
- (c) for the words “or Association” wherever they occur in the section, there shall be substituted the words “Association or Institute”.

(2) The service which by virtue of this section is reckonable for purposes of superannuation under section 67 of the principal Act shall include service before the commencement of this Act, but only in the case of a person retiring or dying in service after that commencement.

1955 c. 12.

(3) Nothing in this section restricts the matters for which provision may be made by an order of the Treasury under section 1 of the Trustee Savings Banks (Pensions) Act 1955 (extension or modification of superannuation benefits payable under sections 64 to 69 of the principal Act).

(4) In this section and in section 67 of the principal Act “the Savings Banks Institute” means the body constituted by that name in January 1948.

Abolition of obsolete minor charge.

8. In section 47(10) of the principal Act (entitlement of depositor with trustee savings bank to copy of bank’s annual statement) the words “on payment of one penny” shall be omitted.

Increased charge on Consolidated Fund.

9. There shall be charged on the Consolidated Fund of the United Kingdom any increase attributable to this Act in the sums payable out of the Consolidated Fund under section 36 of the principal Act.

Interpretation.

1958 c. 8.

10. In this Act—

“the Act of 1958” means the Trustee Savings Banks Act 1958; and

“ the principal Act ” means the Trustee Savings Banks 1954 c. 63.
Act 1954;

and expressions used in this Act and the principal Act have the same meanings in this Act as in that Act.

11. The enactments specified in the second column of the Schedule to this Act are hereby repealed to the extent specified in the third column of the Schedule, but the repeals in section 2 of the Act of 1958 and the repeal of Schedule 1 to that Act shall have effect only from the first coming into force of regulations under section 3 of this Act. Repeals.

12.—(1) This Act may be cited as the Trustee Savings Banks Act 1968, and this Act and the Trustee Savings Banks Acts 1954 to 1964 may be cited together as the Trustee Savings Banks Acts 1954 to 1968. Short title,
citation and
extent.

(2) It is hereby declared that this Act extends to Northern Ireland, and this Act shall also extend to the Isle of Man and the Channel Islands.

Section 11.

SCHEDULE**ENACTMENTS REPEALED**

| Session | Short Title | Extent of Repeal |
|--------------------------|-------------------------------------|--|
| 2 & 3 Eliz. 2. c. 63. | The Trustee Savings Banks Act 1954. | In section 26, the proviso to subsection (2) and subsection (3). Section 34(2). In section 36(1), the words "within three months after the account is laid before Parliament". Section 37(2). In section 47(10) the words "on payment of one penny". Section 71(2). |
| 6 & 7 Eliz. 2. c. 8. | The Trustee Savings Banks Act 1958. | Section 1(1). Section 2(1), and in section 2(4) the words "Money received for special investment shall not be invested except in accordance with this section; and". Schedule 1. |
| 1964 c. 4. | The Trustee Savings Banks Act 1964. | In section 7(1), the words from "and the declaration" onwards. |



London Cab Act 1968

1968 CHAPTER 7

An Act to extend the power of the Secretary of State to prescribe fares in respect of journeys by cab within the metropolitan police district and the City of London; to make provision for extending the length of such journeys which the driver of a cab is obliged by law to undertake; to relax restrictions on the parking of cabs; to prohibit the display on certain vehicles in that district or the City of London of signs or notices containing the word "taxi" or "cab" and signs or notices of certain other descriptions; and to restrict the issue, in connection with certain vehicles, of advertisements containing either of those words.

[15th February 1968]

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

1.—(1) The power of the Secretary of State under paragraph (3) of section 9 of the Metropolitan Public Carriage Act 1869 and section 1 of the London Cab and Stage Carriage Act 1907 (regulations governing cab fares in London) shall include power to prescribe fares for the hire of cabs in respect of all journeys in London whether or not the journey is one which the driver of the cab is obliged by law to undertake.

Power to regulate fares for non-obligatory journeys. 1869 c. 115. 1907 c. 55.

(2) In this section "cab", "fare" and "London" have the same meaning as in the said Act of 1907, and for the purposes of this section a journey shall be treated as a journey in London if it begins and ends there.

Power to increase length of obligatory journeys.
1853 c. 33.

2.—(1) The Secretary of State may by order direct that for the reference to the distance of six miles in section 7 and paragraph (2) of section 17 of the London Hackney Carriage Act 1853 (being the length of a journey which the driver of a cab is by law obliged to undertake) there shall be substituted a reference to such greater distance as appears to him to be appropriate.

(2) An order under this section may be limited so as to apply only in relation to hirings in respect of journeys which begin, or which end, at such places as may be specified in the order, and may substitute different distances in relation to such hirings or any of them and in relation to other hirings.

(3) The power to make orders under this section includes power to vary or revoke a previous order and shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Before making any order under this section the Secretary of State shall consult with such bodies appearing to him to represent the owners and drivers of cabs as he considers appropriate.

Relaxation of restrictions on the parking of cabs.
1831 c. 22.

3.—(1) Section 55 of the London Hackney Carriage Act 1831 (which makes it an offence to leave a cab unattended) is hereby repealed.

(2) In section 35 of the said Act of 1831 (under which a cab found standing in any street or place is, in certain circumstances, deemed to be plying for hire) the reference to a street or place shall not include a reference to any parking place for the time being designated by an order in force under the Road Traffic Regulation Act 1967 or to any part of a road the use of which as a parking place is for the time being authorised by an order in force under that Act.

(3) Notwithstanding anything in any enactment whereby the said section 35 has effect in relation to premises of the British Railways Board or the London Transport Board, the reference in that section to a street or place shall not include a reference to any part of those premises which is set aside by the Board concerned as a parking place for vehicles.

Prohibition of the display of certain signs or notices on, and the issue of certain advertisements in connection with, private hire-cars.

4.—(1) There shall not, in the metropolitan police district or the City of London, be displayed on any private hire-car any sign or notice—

(a) which consists of or includes the word “taxi” or “cab”, whether in the singular or plural and whether alone or as part of another word; or

(b) which consists of the words “for hire”, or the form or wording of which is in any other way such as to suggest

that the vehicle on which it is displayed is presently available to take up any passenger wishing to hire it, or would be so available if not already hired.

(2) No advertisement—

(a) indicating that motor vehicles can be hired on application to a specified address or telephone number, being the address or telephone number of premises in the metropolitan police district or the City of London; or

(b) on or near any such premises indicating that motor vehicles can be hired at those premises,

shall include the word “ taxi ” or “ cab ”, whether in the singular or plural and whether alone or as part of another word, unless the vehicles offered for hire are licensed cabs or the advertisement makes it clear that they are not.

(3) Any person who—

(a) drives a vehicle in respect of which subsection (1) of this section is contravened or causes or permits that subsection to be contravened in respect of any vehicle; or

(b) subject to subsection (4) of this section, issues, or causes to be issued, an advertisement which contravenes subsection (2) of this section,

shall be guilty of an offence and liable on summary conviction, in the case of a first offence under the paragraph of this subsection in question, to a fine not exceeding £20 and, in the case of a second or subsequent offence under that paragraph, to a fine not exceeding £50.

(4) Where a person is charged with an offence under paragraph (b) of subsection (3) of this section, it shall be a defence to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement in question for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under that paragraph.

(5) In this section—

“ advertisement ” includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or a cinematograph film, or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly;

“ private hire-car ” means a motor vehicle, other than a licensed cab or public service vehicle, which is used for the purpose of carrying passengers for hire or reward;

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1869 c. 115.
1847 c. 89.

“ licensed cab ” means a vehicle licensed under section 6 of the Metropolitan Public Carriage Act 1869, section 37 of the Town Police Clauses Act 1847 or any similar local enactment; and

1960 c. 16.

“ public service vehicle ” has the same meaning as in the Road Traffic Act 1960.

(6) The foregoing provisions of this section shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint.

Short title
and repeals.

5.—(1) This Act may be cited as the London Cab Act 1968.

(2) In paragraph (2) of section 9 of the Metropolitan Public Carriage Act 1869 the words “ and the distances to which they may be compelled to take passengers ” and the restriction numbered (2) in that section are hereby repealed.



Mauritius Independence Act 1968

1968 CHAPTER 8

An Act to make provision for, and in connection with, the attainment by Mauritius of fully responsible status within the Commonwealth. [29th February 1968]

BE IT ENACTED by the Queen'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) On and after 12th March 1968 (in this Act referred to as “the appointed day”) Her Majesty's Government in the United Kingdom shall have no responsibility for the government of Mauritius. Fully responsible status of Mauritius.

(2) No Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Mauritius as part of its law; and on and after that day the provisions of Schedule 1 to this Act shall have effect with respect to the legislative powers of Mauritius.

2.—(1) On and after the appointed day the British Nationality Acts 1948 to 1965 shall have effect as if in section 1(3) of the British Nationality Act 1948 (Commonwealth countries having separate citizenship) there were added at the end the words “and Mauritius”. Consequential modifications of British Nationality Acts. 1948 c. 56.

(2) Except as provided by section 3 of this Act, any person who immediately before the appointed day is a citizen of the United Kingdom and Colonies shall on that day cease to be such a citizen if he becomes on that day a citizen of Mauritius.

(3) Section 6(2) of the British Nationality Act 1948 (registration as citizens of the United Kingdom and Colonies of women who have been married to such citizens) shall not apply

to a woman by virtue of her marriage to a person who on the appointed day ceases to be such a citizen under subsection (2) of this section, or who would have done so if living on the appointed day.

1967 c. 4.

(4) In accordance with section 3(3) of the West Indies Act 1967, it is hereby declared that this and the next following section extend to all associated states.

Retention of citizenship of United Kingdom and Colonies by certain citizens of Mauritius.

3.—(1) Subject to subsection (5) of this section, a person shall not cease to be a citizen of the United Kingdom and Colonies under section 2(2) of this Act if he, his father or his father's father—

- (a) was born in the United Kingdom or in a colony or an associated state ; or
- (b) is or was a person naturalised in the United Kingdom and Colonies ; or
- (c) was registered as a citizen of the United Kingdom and Colonies ; or
- (d) became a British subject by reason of the annexation of any territory included in a colony.

(2) A person shall not cease to be a citizen of the United Kingdom and Colonies under the said section 2(2) if either—

- (a) he was born in a protectorate or protected state, or
- (b) his father or his father's father was so born and is or at any time was a British subject.

(3) A woman who is the wife of a citizen of the United Kingdom and Colonies shall not cease to be such a citizen under the said section 2(2) unless her husband does so.

(4) Subject to subsection (5) of this section, the reference in subsection (1)(b) of this section to a person naturalised in the United Kingdom and Colonies shall include a person who would, if living immediately before the commencement of the British Nationality Act 1948, have become a person naturalised in the United Kingdom and Colonies by virtue of section 32(6) of that Act (persons given local naturalisation in a colony or protectorate before the commencement of that Act).

1948 c. 56.

(5) In this section—

- (a) references to a colony shall be construed as not including any territory which, on the appointed day, is not a colony for the purposes of the British Nationality Act 1948 as that Act has effect on that day, and accordingly do not include Mauritius, and

(b) references to a protectorate or protected state shall be construed as not including any territory which, on the appointed day, is not a protectorate or a protected state (as the case may be) for the purposes of that Act as it has effect on that day ;

and subsection (1) of this section shall not apply to a person by virtue of any certificate of naturalisation granted or registration effected by the Governor or Government of a territory which by virtue of this subsection is excluded from references in this section to a colony, protectorate or protected state.

(6) Part III of the British Nationality Act 1948 (supplemental provisions) as in force at the passing of this Act shall have effect for the purposes of this section as if this section were included in that Act. 1948 c. 56.

4.—(1) Notwithstanding anything in the Interpretation Act 1889, the expression “ colony ” in any Act of the Parliament of the United Kingdom passed on or after the appointed day shall not include Mauritius. Consequential modification of other enactments. 1889 c. 63.

(2) On and after the appointed day—

(a) the expression “ colony ” in the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 shall not include Mauritius, and 1955 c. 18. 1955 c. 19. 1957 c. 53.

(b) in the definitions of “ Commonwealth force ” in section 225(1) and 223(1) respectively of the said Acts of 1955, and in the definition of “ Commonwealth country ” in section 135(1) of the said Act of 1957, at the end there shall be added the words “ or Mauritius ” ;

and no Order in Council made on or after the appointed day under section 1 of the Armed Forces Act 1966 which continues either of the said Acts of 1955 in force for a further period shall extend to Mauritius as part of its law. 1966 c. 45.

(3) On and after the appointed day the provisions specified in Schedule 2 to this Act shall have effect subject to the amendments specified respectively in that Schedule.

(4) Subsection (3) of this section, and Schedule 2 to this Act, shall not extend to Mauritius as part of its law.

5.—(1) In this Act, and in any amendment made by this Act in any other enactment, “ Mauritius ” means the territories which immediately before the appointed day constitute the Colony of Mauritius. Interpretation.

(2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.

6. This Act may be cited as the Mauritius Independence Act 1968. Short title.

SCHEDULES

SCHEDULE 1

LEGISLATIVE POWERS OF MAURITIUS

Section 1.

1865 c. 63.

1. The Colonial Laws Validity Act 1865 shall not apply to any law made on or after the appointed day by the legislature of Mauritius.

2. No law and no provision of any law made on or after the appointed day by that legislature shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any Act of the Parliament of the United Kingdom, including this Act, or to any order, rule or regulation made under any such Act, and accordingly the powers of that legislature shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of Mauritius.

3. The legislature of Mauritius shall have full power to make laws having extra-territorial operation.

4. Without prejudice to the generality of the preceding provisions of this Schedule—

1894 c. 60.

(a) sections 735 and 736 of the Merchant Shipping Act 1894 shall be construed as if references therein to the legislature of a British possession did not include references to the legislature of Mauritius; and

1890 c. 27.

(b) section 4 of the Colonial Courts of Admiralty Act 1890 (which requires certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause) and so much of section 7 of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty shall cease to have effect in Mauritius.

Section 4.

SCHEDULE 2

AMENDMENTS NOT AFFECTING THE LAW OF MAURITIUS

Diplomatic immunities

1952 c. 10.

1. In section 461 of the Income Tax Act 1952 (which relates to exemption from income tax in the case of certain Commonwealth representatives and their staffs)—

(a) in subsection (2), before the words "for any state" there shall be inserted the words "or Mauritius";

(b) in subsection (3), before the words "and 'Agent-General'" there shall be inserted the words "or Mauritius".

1952 c. 18.

2. In section 1(6) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952, before the word "and" in the last place where it occurs there shall be inserted the word "Mauritius".

3. In section 1(5) of the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, before the word "and" in the last place where it occurs there shall be inserted the word "Mauritius". SCH. 2 1961 c. 11.

Financial

4. In section 2(4) of the Import Duties Act 1958, before the words "together with" there shall be inserted the word "Mauritius". 1958 c. 6.

Visiting forces

5. In the Visiting Forces (British Commonwealth) Act 1933, section 4 (attachment and mutual powers of command) shall apply in relation to forces raised in Mauritius as it applies to forces raised in Dominions within the meaning of the Statute of Westminster 1931. 1933 c. 6. 1931 c. 4 (22 & 23 Geo. 5.).

6. In the Visiting Forces Act 1952— 1952 c. 67.

(a) in paragraph (a) of section 1(1) (countries to which that Act applies) at the end there shall be added the words "Mauritius or";

(b) in section 10(1)(a), the expression "colony" shall not include Mauritius;

and, until express provision with respect to Mauritius is made by an Order in Council under section 8 of that Act (application to visiting forces of law relating to home forces), any such Order for the time being in force shall be deemed to apply to visiting forces of Mauritius.

Ships and aircraft

7. In section 427(2) of the Merchant Shipping Act 1894, as set out in section 2 of the Merchant Shipping (Safety Convention) Act 1949, before the words "or in any" there shall be inserted the words "or Mauritius". 1894 c. 60. 1949 c. 43.

8. In section 6(2) of the Merchant Shipping Act 1948, at the end of the proviso there shall be added the words "or Mauritius". 1948 c. 44.

9. The Ships and Aircraft (Transfer Restriction) Act 1939 shall not apply to any ship by reason only of its being registered in, or licensed under the law of, Mauritius; and the penal provisions of that Act shall not apply to persons in Mauritius (but without prejudice to the operation with respect to any ship to which that Act does apply of the provisions thereof relating to the forfeiture of ships). 1939 c. 70.

10. In the Whaling Industry (Regulation) Act 1934, the expression "British ship to which this Act applies" shall not include a British ship registered in Mauritius. 1934 c. 49.

11. In section 2(7)(b) of the Civil Aviation (Licensing) Act 1960, the expression "colony" shall not include Mauritius. 1960 c. 38.

SCH. 2

Commonwealth Institute

1925 ch. xvii.
1958 c. 16.

12. In section 8(2) of the Imperial Institute Act 1925, as amended by the Commonwealth Institute Act 1958 (power to vary the provisions of the said Act of 1925 if an agreement for the purpose is made with the governments of certain territories which for the time being are contributing towards the expenses of the Commonwealth Institute) at the end there shall be added the words "and Mauritius".



Commonwealth Immigrants Act 1968

1968 CHAPTER 9

An Act to amend sections 1 and 2 of the Commonwealth Immigrants Act 1962, and Schedule 1 to that Act, and to make further provision as to Commonwealth citizens landing in the United Kingdom, the Channel Islands or the Isle of Man; and for purposes connected with the matters aforesaid. [1st March 1968.]

BE IT ENACTED by the Queen'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. In section 1 of the principal Act (application of Part I), in subsection (2)(b) after the words "citizen of the United Kingdom and Colonies" there shall be inserted the words "and fulfils the condition specified in subsection (2A) of this section", and after subsection (2) there shall be inserted the following subsection:—

"(2A) The condition referred to in subsection (2)(b) of this section, in relation to a person, is that he, or at least one of his parents or grandparents,—

- (a) was born in the United Kingdom, or
- (b) is or was a person naturalised in the United Kingdom,
or
- (c) became a citizen of the United Kingdom and Colonies by virtue of being adopted in the United Kingdom,
or

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1948 c. 56.

1964 c. 22.

(d) became such a citizen by being registered under Part II of the British Nationality Act 1948 or under the British Nationality Act 1964, either in the United Kingdom or in a country which, on the date on which he was so registered, was one of the countries mentioned in section 1(3) of the said Act of 1948 as it had effect on that date”.

Refusal of admission and conditional admission.

2.—(1) The following subsections shall be substituted for subsections (1) and (2) of section 2 of the principal Act:—

“(1) Subject to the following provisions of this section, on the examination under this Part of this Act of any Commonwealth citizen to whom section 1 of this Act applies who enters or seeks to enter the United Kingdom, an immigration officer may refuse him admission into the United Kingdom, or may admit him into the United Kingdom subject to conditions as mentioned in paragraph (a) or paragraph (b) of this subsection, or to conditions as mentioned in both those paragraphs, that is to say—

- (a) a condition restricting the period for which he may remain in the United Kingdom, with or without conditions for restricting his employment or occupation there;
- (b) a condition that, before such date and in such manner as may be specified in the condition, he shall report his arrival to such medical officer of health as may be so specified and shall thereafter attend at such place and time, and submit to such test or examination (if any), as that medical officer of health may require.

(1A) An immigration officer shall not impose such a condition as is mentioned in subsection (1)(b) of this section unless, on the advice of a medical inspector or, where no such inspector is available, on the advice of any other duly qualified medical practitioner, it appears to him to be necessary to do so in the interests of public health.

(2) The power to refuse admission shall not, except as provided by subsection (5) of this section, be exercised on any occasion in respect of a person who—

- (a) satisfies an immigration officer that he is ordinarily resident in the United Kingdom or was so resident at any time within the past two years, or
- (b) being a woman, satisfies an immigration officer that she is the wife of a Commonwealth citizen who is resident in the United Kingdom or of a Commonwealth citizen who enters or seeks to enter the United Kingdom with her.

(2A) Without prejudice to subsection (2) of this section, the power to refuse admission shall not be exercised on any occasion in respect of a person who satisfies an immigration officer—

- (a) that he is under the age of sixteen;
- (b) that he has at least one parent who is a Commonwealth citizen; and
- (c) either that both of his parents are resident in the United Kingdom, or that both of them are entering or seeking to enter the United Kingdom with him, or that one of his parents is resident in the United Kingdom and the other is entering or seeking to enter the United Kingdom with him.

(2B) In paragraph (b) of subsection (2), and in paragraph (c) of subsection (2A), of this section any reference to a person entering or seeking to enter the United Kingdom shall be construed as not including a person who, on the occasion in question, is refused admission into the United Kingdom.

(2C) Where by virtue of subsection (2) or subsection (2A) of this section the power to refuse admission to a person on any occasion is not exercisable, or would not be exercisable apart from subsection (5) of this section, the power under this section to impose any such condition as is mentioned in paragraph (a) of subsection (1) of this section (in the following provisions of this section referred to as a 'restrictive condition') shall not be exercisable on that occasion in respect of that person except—

- (a) in a case falling within subsection (2)(b) of this section, where a restrictive condition is on that occasion imposed on the woman's husband or has previously been imposed on him and is then in force, or
- (b) in a case falling within subsection (2A) of this section, where a restrictive condition is on that occasion imposed on at least one parent of that person or has previously been imposed on at least one parent of his and is then in force".

(2) In subsection (3) of section 2 of the principal Act, for the words "subsection (2)" there shall be substituted the words "subsections (2) and (2A)", and for the words "admit subject to conditions" there shall be substituted the words "impose a restrictive condition".

(3) In subsection (6) of section 2 of the principal Act, for the words from “ ‘ child ’ includes a step-child ” to “ illegitimate child ” there shall be substituted the words “ ‘ parent ’ includes a stepfather or stepmother and a parent by adoption and in relation to a person of illegitimate birth, includes a natural or putative parent of that person, and any reference to both parents, in relation to a person who has only one surviving parent, shall be construed as a reference to that parent ”.

Further
restrictions on
landing in
United
Kingdom.

3. In the principal Act the following section shall be inserted after section 4:—

“ 4A.—(1) Subject to the following provisions of this section, if any person being a Commonwealth citizen to whom section 1 of this Act applies lands in the United Kingdom and does not fulfil either of the conditions specified in the next following subsection, he shall be guilty of an offence.

(2) The conditions referred to in subsection (1) of this section are—

- (a) that, while on board the ship or aircraft from which he lands in the United Kingdom, he has been examined by an immigration officer;
- (b) that he lands in accordance with arrangements approved by an immigration officer, and on landing, submits to examination in accordance with those arrangements.

(3) The Secretary of State may by order provide that subsection (1) of this section shall not apply to a person who lands from a ship or aircraft in such circumstances or combination of circumstances (whether relating wholly or partly to the nature of the voyage of the ship or aircraft, to his being a member of the crew of the ship or aircraft, to his intention to leave the United Kingdom in the same or another ship or aircraft, or to any other matters) as may be specified in the order.

(4) In any proceedings for an offence under this section, where it is proved that a person being a Commonwealth citizen to whom section 1 of this Act applies landed in the United Kingdom, and he does not prove that he landed there in circumstances which (by virtue of an order under subsection (3) of this section) exempt his landing from the operation of subsection (1) of this section, then unless he produces a passport which was duly stamped by an immigration officer—

- (a) on or after the date on which he landed there, and

(b) before the end of the relevant period,
he shall, unless the contrary is proved, be presumed to have landed in contravention of subsection (1) of this section.

(5) For the purposes of subsection (4) of this section, a stamp purporting to have been imprinted in a passport by an immigration officer on a particular date shall, unless the contrary is proved, be presumed to have been imprinted by such an officer on that date; and in that subsection 'the relevant period', in relation to a person, means the period beginning with the date on which he landed in the United Kingdom and ending—

- (a) twenty-eight days after that date, or
- (b) at the end of the day on which his examination (including any further examination) in pursuance of paragraph 1 of Schedule 1 to this Act is concluded,

whichever is the later.

(6) The power to make orders under this section shall be exercisable by statutory instrument; and any statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section 'land' means land from a ship or aircraft, 'ship' includes every description of vessel used in navigation, and 'crew', in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the master of the ship or the commander of the aircraft, and 'member of the crew' shall be construed accordingly."

4. In sub-paragraph (2) of paragraph 1 of Schedule 1 to the principal Act (whereby a person cannot be required to submit to examination under that paragraph unless he is so required within twenty-four hours from the time of landing) for the words "twenty-four hours from the time when" there shall be substituted the words "twenty-eight days from the date on which". Examination of persons landing in United Kingdom.

5.—(1) Where a person lands from a ship or aircraft in contravention of section 4A of the principal Act, the master of the ship or the commander of the aircraft, as the case may be, if— Special offences relating to contraventions of section 4A of principal Act.

- (a) he knows or has reasonable cause to suspect that that person intends to land from the ship or aircraft in contravention of that section, and

(b) he causes or permits him to do so, or does not take such steps as are reasonable in the circumstances to prevent him from doing so,

shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £200 or to imprisonment for a term not exceeding six months or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) The preceding provisions of this section shall have effect without prejudice to the operation—

1861 c. 94.
1952 c. 55.

(a) in England and Wales, of section 8 of the Accessories and Abettors Act 1861 and section 35 of the Magistrates' Courts Act 1952;

(b) in Scotland, of any rule of law relating to art and part guilt; or

1964 c. 21.
(N.I.).

(c) in Northern Ireland, of section 8 of the Accessories and Abettors Act 1861 and section 68 of the Magistrates' Courts Act (Northern Ireland) 1964.

(4) In this section "ship" has the same meaning as in section 4A of the principal Act.

Interpretation
and supplementary
provisions.
1962 c. 21.

6.—(1) In this Act "the principal Act" means the Commonwealth Immigrants Act 1962, and "enactment" includes an enactment of the Parliament of Northern Ireland.

(2) In section 14 of the principal Act (penalties, proceedings etc.), in subsection (2), after the words "offence under this Act" there shall be inserted the words "or under section 5 of the Commonwealth Immigrants Act 1968"; and in subsection (3), after the words "section four" there shall be inserted the words "section 4A", and at the end of subsection (3) there shall be inserted the words "or under section 5 of the Commonwealth Immigrants Act 1968".

(3) In section 18 of the principal Act (provisions relating to the Channel Islands and Isle of Man), in subsection (1), in paragraph (a), after "(2)" there shall be inserted "(2A)", and after that paragraph there shall be inserted the following paragraph:—

"(aa) section 4A",

and in subsection (2), after the words "this Act" there shall be inserted the words "(either as originally enacted or as amended by the Commonwealth Immigrants Act 1968) or of section 5 of that Act".

(4) There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums so payable under section 19 of the principal Act (which relates to expenses).

(5) Her Majesty may by Order in Council direct that section 4A of the principal Act shall have effect, subject to such exceptions and modifications as may be specified in the Order, in relation to persons entering the United Kingdom by land as it has effect in relation to persons landing in the United Kingdom from a ship or aircraft; and any such Order may be revoked or varied by a subsequent Order in Council under this subsection.

(6) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (5) of this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(7) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

7.—(1) This Act may be cited as the Commonwealth Immigrants Act 1968; and the Commonwealth Immigrants Act 1962 and this Act may be cited together as the Commonwealth Immigrants Acts 1962 and 1968.

Short title,
citation and
commence-
ment.
1962 c. 21.

(2) This Act, except sections 3 and 5, shall come into operation on the day after the day on which it is passed; and sections 3 and 5 of this Act shall come into operation at the end of the period of eight days beginning with the day on which it is passed.



Transport Holding Company Act 1968

1968 CHAPTER 10

An Act to amend or clarify the provisions of section 29 of the Transport Act 1962 with respect to the objects and powers of the Transport Holding Company.
[6th March 1968]

BE IT ENACTED by the Queen'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:—

Objects and powers of Transport Holding Company.
1962 c. 46.

1.—(1) In subsection (11) of section 29 of the Transport Act 1962 (which provides that the aggregate principal amount outstanding in respect of money borrowed by the Transport Holding Company established under that section otherwise than from a subsidiary of that Company shall not at any time exceed thirty million pounds), for the word “thirty” there shall be substituted the words “one hundred”.

(2) For the removal of doubt it is hereby declared that, for the purposes of subsections (6) and (8) of the said section 29 (which relate to the objects and powers of the Transport Holding Company)—

- (a) any such action with respect to a company as is referred to in paragraph (i) or (ii) of the said subsection (6) taken by the Transport Holding Company whether before or after the passing of this Act shall be regarded as taken for the objects specified in paragraphs (a) and (b) of that subsection if the principal activities of the company consist of the provision of transport services or facilities or the manufacture of road vehicles; and
- (b) the said paragraphs (a) and (b) and the said subsection (8) apply to any securities vested in the Transport Holding Company by virtue of the exercise of the powers conferred on them by the said paragraphs (i)

and (ii) as they apply to the securities vested in them by virtue of the said Act of 1962.

2. This Act may be cited as the Transport Holding Company Short title. Act 1968.



Revenue Act 1968

1968 CHAPTER 11

An Act to reduce the amount of certain payments under the Selective Employment Payments Act 1966 with exceptions for development areas, and to amend the law about export rebates. [13th March 1968]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards making an addition to the public revenue, have freely and voluntarily resolved to make such provision as respects export rebates as is hereinafter set out; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen'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:—

Withdrawal
of part of
selective
employment
payments
outside
development
areas.
1966 c. 32.

1.—(1) Subsections (2), (3) and (4) of this section have effect as respects any payments under the Selective Employment Payments Act 1966 (in this section called the “ Act of 1966 ”) for any contribution week beginning on or after 1st April 1968.

(2) No addition to the refund of tax shall be added to a payment under section 1 of the Act of 1966 unless the relevant establishment is situated wholly within a development area.

(3) Paragraph (a) of section 3(2) of the Act of 1966 (public bodies: amount of certain payments to correspond to tax paid plus appropriate addition) shall only apply if the employment there described (employment in a part of an undertaking specified in Part III of Schedule 1 to the Act of 1966) is employment at or from places situated wholly within a development area, and paragraph (b) of the said section 3(2) (amount of payments to correspond to tax paid) shall apply to cases hereby excluded from paragraph (a).

(4) In accordance with subsection (3) above, in the said section 3(2)(a) after the word "Schedule" there shall be inserted the words "and was employment at or from places situated wholly within a development area".

(5) For cases where payments which include an addition to the refund of tax, or payments corresponding to such payments, have been paid in connection with any establishment or part of an undertaking for contribution weeks beginning on or after 1st April 1968, but cease to be payable by reason of a change in the development areas, the Treasury may by order provide for additions to the refund of tax, or corresponding payments, to continue to be paid under the Act of 1966 in connection with the establishment or part of an undertaking for such period as may be so specified in the order, and of such amount or amounts as may be specified either in relation to the whole of that period or in relation to different parts of that period.

An order under this subsection—

- (a) may be made either in relation to all development areas or in relation only to such development areas or parts of development areas as are specified in the order,
- (b) shall be made by statutory instrument, and
- (c) may be varied or revoked by a subsequent order under this subsection,

but no order shall be made under this subsection unless a draft thereof has been approved by resolution of each House of Parliament.

(6) In this section—

"development area" has the same meaning as in section 26 of the Finance Act 1967,

1967 c. 54.

"addition to the refund of tax" means any addition (to the amount of tax paid) under paragraphs (a) to (d) of section 1(1) of the Act of 1966,

"relevant establishment" in relation to a payment under section 1 of the Act of 1966, and in respect of a person in an employment to which that section applies, means the establishment in or from which the employment is carried out.

(7) This section shall be construed as one with the Act of 1966.

(8) For any contribution week beginning on or after 1st April 1968 paragraphs (a), (b), (c) and (d) of section 1(1) of the Act of 1966 shall cease to have effect except where the relevant establishment is situated wholly within a development area, and except as applied by section 3(2)(a) of that Act.

(9) This section does not extend to Northern Ireland.

Termination
of export
rebates.
1964 c. 92.

2.—(1) Subject to the provisions of this Act, no rebate shall be payable under section 7 of the Finance (No. 2) Act 1964 (export rebates)—

- (a) in respect of goods exported from the United Kingdom after 31st March 1968, or
- (b) if the relevant transaction is a sale made after 31st March 1968, in respect of goods exported from the United Kingdom on or before 31st March 1968.

(2) Subsection (1) above shall not apply if the relevant transaction (for cases within paragraph (a) as well as cases within paragraph (b) of that subsection) is a written contract of sale, or a sale in pursuance of a written contract of sale, and the Board of Trade are satisfied as respects that contract of sale, on a written application made to them not later than the expiration of a period of one month beginning with the passing of this Act—

- (a) that the contract of sale was made before 19th November 1967,
- (b) that the contract satisfies the conditions in subsection (3) or as the case may be subsection (4) below,

and issue to the applicant a certificate in writing to the effect that they are so satisfied.

(3) Where the price for the goods is expressed in sterling, the said conditions are that there is no provision for the alteration of the terms of the contract on a change in the exchange rate of sterling with any other currency or medium of exchange, or on the withdrawal of export rebates, and—

- (a) either that the price for the goods is payable in sterling, or
- (b) where the price for the goods is not payable in sterling, that there is no provision for the conversion of the expressed sterling price into the currency in which the price is payable to be at a rate of exchange which was the rate prevailing at some time before 19th November 1967.

(4) Where the price for the goods is not expressed in sterling, the said conditions are—

- (a) either that the price is payable in sterling and the contract provided for the conversion of the expressed price into sterling at a rate of exchange which was the rate prevailing at some time before 19th November 1967, or
- (b) that the price is not payable in sterling and the contract provided for the price to be reduced on a change in the exchange rate of sterling with the currency in which the price is expressed,

and in either case that there is no provision for the alteration of the terms of the contract on the withdrawal of export rebates.

(5) The Schedule to this Act shall have effect for supplementing this section.

(6) In this and the next following section, and in the said Schedule, "relevant transaction" means the transaction by virtue of which an application for the rebate in question is made.

(7) This and the next following section and the said Schedule shall be construed as one with section 7 of the Finance (No. 2) Act 1964 c. 92. Act 1964.

3.—(1) The Treasury may by order direct that rebate shall, notwithstanding section 2 above and paragraph 1 of the Schedule to this Act, be payable under section 7 of the Finance (No. 2) Act 1964 in respect of goods exported from the United Kingdom on or after the date specified in the order. Re-introduction of export rebates.

(2) An order under this section may be made to apply only in respect of goods shown to the satisfaction of the Commissioners to have been consigned to countries or territories specified in the order, or to apply only in respect of goods shown to the satisfaction of the Commissioners to have been exported for use in countries or territories so specified, and may exclude cases where the relevant transaction is a sale or hiring effected after the export of the goods.

(3) An order under this section—

- (a) may exclude or modify any of the provisions of paragraphs 8 to 11 of the Schedule to this Act,
- (b) may contain such transitional and other supplemental and incidental provisions as appear to the Treasury to be expedient,
- (c) may be varied or revoked by a subsequent order under this section.

(4) An order under this section shall be laid before the House of Commons after being made, and the order shall cease to have effect at the end of twenty-eight days after that on which it is made (but without prejudice to the payment of rebate by reference to a previous relevant transaction or to the making of a new order) unless at some time before the end of those twenty-eight days the order is approved by resolution of the House of Commons.

In reckoning for the purposes of this subsection any period of twenty-eight days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

(5) An order under subsection (3)(c) above which terminates export rebates either generally, or in respect of goods consigned

to a specified country or territory, may apply, subject to the modifications and exceptions specified in the order, the provisions of section 2 above, and of the Schedule to this Act:

Provided that in applying the Schedule to this Act its penal provisions shall not be modified by enlarging the circumstances in which a criminal offence is committed, or by authorising a new or increased penalty.

Short title.

4. This Act may be cited as the Revenue Act 1968.

SCHEDULE

Section 2.

EXPORT REBATES: SUPPLEMENTAL

Termination of export rebates for hired goods

1. Subject to paragraph 2 below, no rebate shall be payable under section 7 of the Finance (No. 2) Act 1964 in respect of goods exported from the United Kingdom on or before 31st March 1968 if the relevant transaction—

- (a) is a hiring made, or under which possession of the goods passes, after 31st March 1968, or
- (b) is a contract of hire which does not specify the period of hiring, or a hiring pursuant to such a contract, and on 31st March 1968 the goods have not been on hire outside the United Kingdom pursuant to the contract for one year or more.

2.—(1) Neither section 2(1) of this Act nor paragraph 1 above shall apply if the relevant transaction is a written contract of hire, or a hiring in pursuance of a written contract of hire, and the Board of Trade are satisfied, on a written application made to them not later than the expiration of a period of one month beginning with the passing of this Act—

- (a) that the contract was made before 19th November 1967,
- (b) that the contract satisfies the conditions in sub-paragraph (2) or as the case may be sub-paragraph (3) below,

and issue to the applicant a certificate in writing to the effect that they are so satisfied.

(2) Where the consideration payable for the hiring is expressed in sterling, the said conditions are that there is no provision for the alteration of the terms of the contract on a change in the exchange rate of sterling with any other currency or medium of exchange, or on the withdrawal of export rebates, and—

- (a) either that the consideration is payable in sterling, or
- (b) where the consideration is not payable in sterling, that there is no provision for the conversion of the expressed sterling amount into the currency in which the consideration is payable to be at a rate of exchange which was the rate prevailing at some time before 19th November 1967.

(3) Where the consideration payable for the hiring is not expressed in sterling, the said conditions are—

- (a) either that the consideration is payable in sterling and the contract provided for the conversion of the expressed amount into sterling at a rate of exchange which was the rate prevailing at some time before 19th November 1967, or
- (b) that the consideration is not payable in sterling and the contract provided for the expressed amount to be reduced on a change in the exchange rate of sterling with the currency in which it is expressed,

and in either case that there is no provision for the alteration of the terms of the contract on the withdrawal of export rebates.

Board of Trade certificates

3.—(1) An application to the Board of Trade for a certificate under this Act shall be made in such form and manner, and shall contain such particulars, as the Board may direct.

(2) If before the passing of this Act, and in accordance with arrangements made by the Board of Trade, any person has made an application to the Board as respects a contract made before 19th November 1967 with a view to obtaining relief under this Act, the Board of Trade may if they think fit treat the application as if made under this Act.

1964 c. 92.

4. On any application under section 7 of the Finance (No. 2) Act 1964 for export rebate payable by virtue of a certificate of the Board of Trade under this Act the Commissioners may require the applicant to produce the certificate and to make a declaration in such form and manner, and containing such particulars, as the Commissioners may direct, stating that the facts stated in the application to the Board of Trade for the certificate were true.

5.—(1) Any officer or person authorised by the Board of Trade may require any person who has been concerned with a contract in respect of which an application has been made (before or after the passing of this Act) to the Board of Trade for a certificate under this Act, or with any goods to which such a contract relates, to furnish, within such time as that officer or person may require, such information as may be reasonably necessary to enable the Board of Trade to determine whether a certificate should be issued in respect of that contract, or whether any certificate so issued should be cancelled under paragraph 6 below, and to produce any books or accounts or other document of whatever nature relating to the contract, or to those goods, for inspection by that officer or person at such time and place as he may require.

(2) Any such officer or person shall be entitled to take extracts from or make copies of any document produced to him under sub-paragraph (1) above.

(3) If any person fails to comply with any requirement under sub-paragraph (1) above he shall be liable on summary conviction to a fine not exceeding—

- (a) in the case of a first offence under this paragraph, £100, and
- (b) in the case of a second or subsequent offence under this paragraph, £200.

6.—(1) The Board of Trade may at any time cancel a certificate issued by them if they discover any fact not taken into account by them in deciding to issue the certificate.

(2) The Board of Trade shall forthwith notify the applicant of the cancellation of the certificate.

(3) The Commissioners may require a person to whom a rebate has been paid by virtue of a certificate of the Board of Trade cancelled under this paragraph to repay the whole or any part of that rebate, or may withhold the whole or any part of any rebate which would, but for the cancellation of the certificate, be payable to any person.

7.—(1) If after the passing of this Act any person, for the purpose of inducing the Board of Trade to issue a certificate under this Act, makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement which is false in a material particular, he shall be liable—

- (a) on summary conviction to a fine not exceeding £200,
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years, or to both.

(2) No proceedings for an offence under this paragraph shall be instituted except by or with the consent of the Director of Public Prosecutions or the Board of Trade.

Early payment of export rebates

8.—(1) This paragraph has effect as respects any export rebates payable by virtue of a certificate issued by the Board of Trade under this Act.

(2) If it appears to the Commissioners that it is practicable to determine the amount of any such rebate which will become payable if the terms of the contract to which the certificate relates are carried out, they may, at any time after the appointed date, pay the rebate notwithstanding that one or more of the conditions for the payment of the rebate mentioned in paragraphs (a), (b), (c) and (d) of section 7(2) of the Finance (No. 2) Act 1964 has not then been satisfied, but subject to such conditions as the Commissioners think necessary for securing the repayment of the whole or any part of the rebate if the conditions in the said section 7(2) are not all satisfied within such time as they may determine. 1964 c. 92.

(3) In considering whether it is practicable to determine the amount of any such rebate the Commissioners shall take account of the provisions of the next following paragraph (which modify certain provisions in Schedule 3 to the said Act of 1964 depending on facts which cannot be ascertained on the appointed date).

(4) In this and the next following paragraph “the appointed date” means such date, not earlier than 31st December 1968, as the Treasury may by order in a statutory instrument appoint.

9.—(1) Schedule 3 to the Finance (No. 2) Act 1964 (ascertainment of export value) shall apply to export rebates payable by virtue of a certificate issued by the Board of Trade under this Act subject to the modifications in this paragraph.

(2) In paragraph 2(3) and in paragraph 3(3) (discount for purchase price or rental payable twelve months or more after time when property or possession passes), as they apply to cases where that time cannot be ascertained on the appointed date, for the references to that time there shall be substituted a reference to the appointed date.

(3) In the said paragraph 2(3) and the said paragraph 3(3) for the reference to the bank rate prevailing at the time when property or

possession passes there shall be substituted a reference to the bank rate prevailing at that time or on the appointed date, whichever is the earlier.

(4) In paragraph 4(1) (comparison with open market value at time of export) for the reference to the time of export there shall be substituted a reference to that time or the appointed date, whichever is the earlier.

(5) In paragraph 4(3) (comparison with open market value at time of sale after export) for the reference to that time there shall be substituted a reference to that time or the appointed date, whichever is the earlier.

Exclusion of applications for small amounts

10. Section 7(8) of the said Act of 1964 (no rebate unless export value of goods covered by applications in any one year is £2,000 or more) shall apply to the half year from 1st October 1967 to 31st March 1968 as if it were a year, but with the substitution of £1,000 for £2,000.

11.—(1) If on an application as respects any period beginning after 31st March 1968 the applicant so elects by notice in writing to the Commissioners, sub-paragraph (2) below shall apply to the application, and shall so apply in substitution for the said section 7(8).

(2) An applicant shall not be eligible for a rebate by virtue of the application unless the export value of the goods to which the application relates (determined in accordance with Schedule 3 to the Act of 1964) is not less than £500.



Teachers Superannuation (Scotland) Act 1968

1968 CHAPTER 12

An Act to amend the law in Scotland relating to the superannuation and other benefits payable to or in respect of teachers and certain other persons employed in connection with the provision of educational services, and for connected purposes. [13th March, 1968]

BE IT ENACTED by the Queen'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

PERSONAL SUPERANNUATION BENEFITS

1.—(1) There shall be payable by the Secretary of State to or in respect of teachers such superannuation benefits as may, in accordance with this Part of this Act, be provided for by regulations made by him.

(2) Regulations so made shall make provision for determining the service which is to be reckonable service for the purpose of enabling teachers to qualify for superannuation benefits under the regulations or for other purposes of this Part of this Act, and the period of reckonable service which must be completed and any other requirements which must be fulfilled to entitle a teacher or his personal representatives to superannuation benefits.

(3) Subject to the last foregoing subsection, the regulations made for the purposes of this section shall provide—

(a) for the payment of allowances in accordance with section 2 of this Act to retired teachers who have attained such age as may be prescribed for this purpose; and

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- (b) for the payment of allowances in accordance with that section to retired teachers who, before attaining such age as may be prescribed for this purpose, have become, in the opinion of the Secretary of State, incapacitated ; and
- (c) for the payment of gratuities to retired teachers who, before attaining the age of seventy, have become, in the opinion of the Secretary of State, incapacitated, and are not entitled to the allowances above referred to ; and
- (d) for the payment of gratuities to the personal representatives of teachers who die while still employed in reckonable service or who die in such other circumstances as may be prescribed.

(4) The inclusion in the following provisions of this Act of any specific power to make regulations shall not be taken as prejudicing the generality of the power to make regulations under this section.

(5) For the purposes of this Part of this Act—

“retired teacher” means a teacher who has ceased to be employed in reckonable service ; and

“incapacitated” means permanently incapable through infirmity of mind or body of serving efficiently as a teacher in reckonable service.

Annual and additional allowances.

2.—(1) The allowances payable to retired teachers in accordance with regulations made by virtue of section 1(3)(a) and (b) of this Act shall consist of an annual allowance for life and an additional allowance by way of lump sum payment, both allowances being calculated by reference to the period of the teacher's reckonable service and to his average salary.

(2) The rate of the annual allowance shall not exceed an amount equal to one-eightieth of the average salary multiplied by the number of years (subject to the maximum specified in subsection (4) of this section) of the reckonable service.

(3) The amount of the additional allowance shall not exceed an amount equal to the appropriate fraction of the average salary multiplied by the number of years (subject to the maximum specified in subsection (4) of this section) of the reckonable service, and the appropriate fraction is three-eightieths for service on or after 1st October 1956 and one-thirtieth for service before that date.

(4) Subject to subsection (5) of this section, for the purpose of calculating the amount of the annual allowance and of the

additional allowance, no account shall be taken of any reckonable service—

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- (a) beyond a total of forty-five years ; or
- (b) beyond a total of forty years before attaining the age of sixty years.

(5) For the purpose of calculating additional allowances in the case of teachers whose reckonable service includes service before 1st October 1956—

- (a) any service to be disregarded by virtue of subsection (4)(a) of this section shall be taken from the beginning of the period of the reckonable service ; and
- (b) subsection (4)(b) of this section shall not apply, but the amount of the additional allowance so far as attributable to service before attaining the age of sixty shall not exceed one-and-a-half times the average salary.

(6) Where a teacher becomes entitled to the allowances as having become incapacitated, and does so before attaining the age of sixty-five and without having completed twenty years of reckonable service, the allowances shall be calculated as if the teacher had completed such period of reckonable service not exceeding twenty years as may be prescribed, and (in order to determine the appropriate fraction for calculating the additional allowance) as if the additional period of reckonable service had been a continuous period immediately preceding the actual commencement of the reckonable service.

3.—(1) For the purpose of defraying the cost of superannuation benefits payable by the Secretary of State under this Part of this Act, contributions shall be paid to the Secretary of State by teachers and their employers in accordance with the following provisions of this section. Financing of benefits.

(2) Contributions under this section shall be payable only in respect of teachers to whom regulations made under this Part of this Act for the time being apply.

(3) Subject to the provisions of this Part of this Act, the contributions payable in respect of a teacher by the teacher shall be of an amount equal to six per cent. of his salary for the time being ; but regulations shall—

- (a) provide that, in such cases and on such conditions as may be prescribed, contributions paid by a teacher shall be repaid to him or to his personal representatives if he has ceased to be employed in reckonable service without any allowance or gratuity becoming payable to or in respect of him under this Part of this Act ; and
- (b) provide for determining the method by which the amount to be repaid in respect of those contributions and of interest thereon is to be ascertained.

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(4) Subject to the provisions of this Part of this Act, the contributions payable in respect of a teacher by his employer shall be of an amount equal to six per cent. of the teacher's salary for the time being, together with any supplementary contributions required as mentioned in section 5(3) of this Act and calculated by reference to the teacher's salary for the time being.

Calculation
of salary and
average salary.

4.—(1) For the purposes of this Part of this Act, the salary of a teacher shall be taken, subject to subsection (2) of this section, to be the aggregate of the emoluments, whether in money or in kind, receivable by the teacher in respect of his employment in reckonable service, but shall exclude such moneys or other emoluments as may be prescribed:

Provided that the Secretary of State shall have power in such cases as he may think fit to make a direction disapplying any such exclusion.

(2) Where a teacher is by reason of sickness receiving less than his full salary, then, for the purpose of calculating the amounts payable by way of contributions in respect of him under section 3 of this Act, the amount which he is so receiving shall be deemed to be his salary.

(3) Subject to the following provisions of this section, the average salary of a teacher for the purposes of regulations under this Act shall be taken to be the average amount of his full salary calculated under subsection (1) of this section, in respect of his employment in reckonable service or other prescribed service during the three years of such service (whether continuous or not) next preceding the commencement of any annual allowance, or the grant of any additional allowance or gratuity, payable under this Part of this Act.

(4) If a teacher has not been employed in reckonable service or other prescribed service for three years or more, his average salary shall be calculated by reference to the period during which he has been so employed; and regulations may provide that, in the case of a teacher who has completed forty-five years' service of a prescribed description, his average salary shall be calculated by reference to a period determined under the regulations instead of the period appropriate under subsection (3) of this section.

(5) If, in the opinion of the Secretary of State, the salary of a teacher has been unreasonably increased in respect of his employment during any period to be taken into account in calculating his average salary, the salary on which his average salary is to be computed shall be deemed to be such amount as the Secretary of State considers to be proper.

(6) Regulations may make provision containing such conditions as may be prescribed enabling a teacher who suffers a reduction in his salary while continuing to be employed, or upon being re-employed, in reckonable service, or upon being employed in reckonable service after employment in such other service as may be prescribed, to elect to be treated for the purposes of any obligation to pay contributions and any entitlement to superannuation benefits as if he were in receipt of the salary at which he was last employed before the reduction :

Provided that the teacher may at any time withdraw an election made under this subsection in such manner as may be prescribed.

5.—(1) An account shall be kept of the revenue and expenditure under this Part of this Act as provided by Part I of Schedule 1 to this Act. Accounts and actuarial inquiries.

(2) The Secretary of State shall cause an actuarial inquiry and report thereon to be made every five years, as provided by Part II of Schedule 1 to this Act, for the purpose of determining—

(a) whether, on the basis of the teachers superannuation account, the contributions payable under section 3 of this Act are sufficient, more than sufficient, or less than sufficient to support the expenditure required to be included in that account so far as attributable to service on or after 1st June 1922 ; and

(b) if those contributions are found, as provided by Part II of Schedule 1 to this Act, to be not sufficient, what supplementary contributions are required from employers to make good the deficiency as so provided.

(3) Where a report requires supplementary contributions to be paid by employers, such contributions shall be required in respect of any period after the expiry of the accounting period in which the report is made and before the expiry of the accounting period in which the next subsequent report is made in pursuance of this section.

(4) The Secretary of State shall cause to be laid before each House of Parliament the report made on each actuarial inquiry held in pursuance of this section.

6. Regulations may make any of the provisions specified in Schedule 2 to this Act, which relate to liability for contributions and to reducing, suspending, withholding or ending superannuation benefits under this Part of this Act in certain cases. Provisions relating to contributions and benefits.

PART II

PENSIONS FOR WIDOWS AND OTHER DEPENDANTS

Pensions for widows, widowers, children and dependants.

7.—(1) The Secretary of State may provide by regulations for the payment of pensions of such amounts, in such cases and subject to such conditions as may be prescribed, to or in respect of the widows or widowers and the children or other dependants of teachers who die on or after 1st April 1965.

(2) Regulations under this section shall provide for the establishment of a fund—

- (a) into which shall be paid all contributions received by the Secretary of State as mentioned in section 8 of this Act and such other sums as may be prescribed; and
- (b) out of which shall be paid the pensions referred to in subsection (1) of this section and such other sums as may be prescribed.

(3) Regulations under this section—

- (a) shall provide for the establishment of a board of management to undertake the management of the fund and to exercise such other powers and functions in relation to the pensions referred to in subsection (1) of this section as may be determined in accordance with the regulations; and
- (b) shall provide for the payment by the Secretary of State of any administrative expenses incurred for the purposes of this Part of this Act and the payment by him, to the members of the board of management, of such travelling, subsistence and other allowances as he may, with the consent of the Treasury, determine.

Contributions to finance pensions for widows and other dependants.

8.—(1) Regulations made under section 7 of this Act shall require the payment to the Secretary of State, in such cases as may be prescribed,—

- (a) of contributions by teachers of such amounts as may be determined in accordance with the regulations;
- (b) of a single contribution, by or in respect of a teacher, of such amount as may be so determined.

(2) Except where the regulations otherwise provide, they shall require any such payment as is referred to in subsection (1)(b) of this section to be made by the surrender of the whole or a proportion of any additional allowance or gratuity payable under Part I of this Act to or in respect of the teacher in question, or of any sum payable to or in respect of him by way of return of personal superannuation contributions.

PART II

(3) Regulations under section 7 of this Act shall provide that, in such cases and on such conditions as may be prescribed, all or part of the contributions paid by a teacher as mentioned in subsection (1)(a) of this section shall be repaid to him or his personal representatives, and shall also provide for determining the method by which the amount to be repaid in respect of those contributions and of interest thereon is to be ascertained.

(4) Any amounts required to be repaid as mentioned in subsection (3) of this section shall be repaid out of the fund referred to in section 7 of this Act.

9.—(1) Where, in such cases as may be prescribed, a person becomes employed in reckonable service after having been engaged in employment in relation to which provision is made for payments to be made to or for the benefit of the dependants of persons engaged in that employment, provision may be made by regulations under section 7 of this Act for the payment into the fund referred to in that section of a payment in respect of some or all of his previous employment.

Preservation of benefits on transfer of employment.

(2) Where, in such cases as may be prescribed, a teacher ceases to be employed in reckonable service and takes up other employment in relation to which provision is made for such payments as are mentioned in subsection (1) of this section, then for the purpose of enabling some or all of the teacher's employment in reckonable service to be taken into account in determining the amount of any such payment which may become payable to or in respect of his dependants, provision may be made by regulations under section 7 of this Act for the payment, out of the fund referred to in that section, of such sum as may be determined in accordance with the regulations.

PART III

MISCELLANEOUS AND GENERAL

10.—(1) Regulations under this section may provide that such provisions of this Act and of regulations made under this Act as may be prescribed shall apply in relation to such teachers or other persons to whom this section applies as may be prescribed.

Application of Act to teachers not engaged in reckonable service and others.

(2) Any application, by virtue of subsection (1) of this section, of any provision of this Act or of regulations made thereunder may be made subject to any modifications or exceptions specified in the regulations.

(3) This section applies to teachers who are not for the time being engaged in reckonable service and to persons who are not teachers but who are engaged in employment which involves the performance of duties in connection with the provision of education or of services ancillary to education.

PART III
Application of Act to part-time teachers and teachers whose reckonable service is temporarily discontinued.

11.—(1) In their application to teachers who are not full-time teachers, the provisions of sections 3 to 5 of and Schedule 1 to this Act and of regulations made under this Act shall have effect subject to such modifications and exceptions as may be specified in the regulations.

(2) Provision may be made by regulations enabling a teacher whose employment in reckonable service is discontinued for a period, not exceeding such maximum period as may be determined in accordance with the regulations to be appropriate in his case, to pay contributions in respect of that period of such amounts as may be so determined; and the regulations may provide that any period during which such contributions are paid shall be treated as a period of reckonable service for the purposes of such provisions of sections 3 to 5 of and Schedule 1 to this Act and of regulations made under this Act as may be prescribed.

Collection of contributions.

12.—(1) Regulations may provide that, in such cases as may be prescribed, sums payable by teachers in respect of contributions shall be deducted from their salaries by their employers.

(2) Regulations may make provision for—

(a) the collection of sums deducted as mentioned in subsection (1) of this section and of employers' contributions by deductions from grants payable out of moneys provided by Parliament;

(b) the charging of interest at such rate as may from time to time be prescribed on contributions which have not been duly paid to the Secretary of State for the purposes of this Act.

Payment of deferred annuities.
1898 c. 57.

13. All deferred annuities payable in respect of Scottish contributions to the deferred annuity fund established under the Elementary School Teachers (Superannuation) Act 1898 shall be paid by the Secretary of State; and any sums required by the Secretary of State for making payments under this section shall be charged on and issued out of the Consolidated Fund.

Payment of benefits on death.

14. Regulations may authorise the payment, without confirmation or other proof of title, of any sum due under this Act in respect of a teacher or any other person who has died, to his personal representatives or such other persons as may be prescribed.

Protection of benefits from creditors.

15. Provision may be made by regulations rendering void any assignment of or charge on, or any agreement to assign or charge, any allowance, gratuity or pension payable under this Act, and the regulations may provide that, on the sequestration of the estate of a person entitled to such allowance, gratuity or

pension, no part thereof shall pass to any trustee or other person acting on behalf of the creditors except in accordance with an order made by a court in pursuance of any enactment specified in the regulations.

PART III

16.—(1) Any person who, by means of any false representation, statement or document which he knows to be false, or by personation or other fraudulent means, obtains or attempts to obtain, for himself or any other person,—

Offences relating to obtaining superannuation benefits.

- (a) any benefit or payment to which this section applies, or
- (b) any increase in, or any sum in respect of, a benefit or payment to which this section applies,

shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or both, and on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £100 or both.

(2) In subsection (1) of this section—

- (a) any reference to a benefit to which this section applies is a reference to any allowance, gratuity or pension payable under any provision of this Act or any regulations made thereunder, and
- (b) any reference to a payment to which this section applies is a reference to the payment of any sum by way of return of contributions.

17. In addition to the functions conferred on the Government Actuary or the Deputy Government Actuary by Schedule 1 to this Act, regulations may confer on them such other functions for the purposes of this Act as may be prescribed.

Functions of Government Actuary.

18.—(1) Any reference in this Act to regulations is a reference to regulations made by the Secretary of State with the consent of the Treasury.

Regulations.

(2) Regulations so made may provide for the reference to the Secretary of State of questions arising under the Teachers Superannuation Scheme and under any regulations made or deemed to have been made under the Act of 1962 or made under this Act and may provide that his decision on any question so referred shall be final.

(3) Regulations so made may contain such incidental, supplementary and consequential provisions as appear to the Secretary of State to be necessary or expedient, including provision requiring the giving of information and the production of documents.

PART III

(4) Regulations so made may provide for the making by the Secretary of State of rules for the purpose of giving effect to the provisions of this Act or of any regulations made thereunder.

(5) Before making regulations under any provision of this Act, the Secretary of State shall consult with representatives of education authorities, teachers and other bodies appearing to him to be likely to be affected by the proposed regulations.

(6) Regulations so made and rules made in pursuance of subsection (4) of this section shall be made by statutory instrument, and such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Regulations so made shall prescribe the date upon which the regulations are to come into operation, and different dates may be prescribed for different parts of the regulations, and any date so prescribed may be a date earlier than the date upon which the regulations are made, so, however, that so much of any regulations as provides that any provision thereof is to have effect from a date prior to the making of any regulations shall not place any teacher affected by them 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.

Financial provisions.

19.—(1) Except as provided by section 7(2)(a) of this Act, any sums received by the Secretary of State by virtue of any provision of this Act or of regulations made thereunder shall be paid into the Exchequer.

(2) Except as provided by section 7(2)(b) of this Act, there shall be paid out of moneys provided by Parliament any expenses incurred by the Secretary of State in the payment of any allowance, gratuity or other sum which is payable to or in respect of a teacher or any other person in consequence of any provision of this Act or of regulations made thereunder.

1939 c. 20.

(3) There shall be paid out of moneys provided by Parliament all other expenses, so far as they are not met under section 1(2) of the Reorganisation of Offices (Scotland) Act 1939, which are incurred by the Secretary of State in the exercise of his functions under this Act.

Interpretation.

20.—(1) In this Act, except in so far as the context otherwise requires,—

1962 c. 47.

“the Act of 1962” means the Education (Scotland) Act 1962;

“the appointed day” means such day as may be appointed for the purposes of section 21 of this Act by regulations;

- “contributions” means contributions payable under section 3 of this Act (including any supplementary contributions so payable) or under regulations made under any provision of this Act ;
- “personal superannuation contributions” means all contributions other than those which, by virtue of regulations under Part II or Part III of this Act, are required to be paid into the fund established as mentioned in section 7 of this Act ;
- “prescribed” means prescribed by regulations made by the Secretary of State ;
- “reckonable service” means service which, in accordance with regulations made by virtue of section 1(2) of this Act, is to be reckonable service for the purposes mentioned in that section ;
- “the teachers superannuation account” means the account required to be kept under section 5(1) of this Act ;
- “the Teachers Superannuation Scheme” has the same meaning as in section 145(47) of the Act of 1962 ;
- “the Teachers (Superannuation) Regulations” has the same meaning as in section 145(48) of the Act of 1962.

(2) For the purposes of this Act, the employer of a teacher shall include an education authority, governing body or other body of managers by whom a teacher is employed.

(3) Except in so far as the context otherwise requires, any reference in this Act to any other enactment shall be taken as referring to that enactment as amended by or under any other enactment, including this Act.

21.—(1) Subject to the following provisions of this section, on the appointed day—

- (a) such provisions of the enactments specified in Schedule 3 to this Act as are specified in column 3 of that Schedule shall cease to have effect ;
- (b) any regulations and rules made under any of the provisions referred to in the foregoing paragraph which are in force immediately before the appointed day shall cease to have effect.

Provisions consequential on coming into force of regulations and transitional provisions.

(2) Except as may be provided by regulations, nothing in this section or in any regulations made under any provision of this Act shall affect the operation of any provision of Part IV of the Act of 1962 or of any such regulations or rules as are

PART III referred to in paragraph (b) of the foregoing subsection in relation to—

(a) any benefit or deferred annuity payable under that Act or under any such regulations or rules before the appointed day ;

(b) any liability to pay contributions in respect of the person to or in respect of whom any such benefit or deferred annuity is payable.

(3) Regulations may make provision extending, in any case specified in the regulations—

(a) any reference in any enactment to service as defined in the Teachers Superannuation Scheme or to first class service so as to include a reference to reckonable service ; and

(b) any reference in any enactment to benefits, or to sums paid or payable, under the Teachers Superannuation Scheme or the Teachers (Superannuation) Regulations, so as to include a reference to superannuation benefits of a prescribed description, or, as the case may be, to sums paid or payable under regulations made under any provision of this Act.

(4) Any actuarial inquiry which immediately before the appointed day is in the course of being made under section 107 of the Act of 1962 shall be treated as if it were being made under section 5 of this Act, and the provisions of the said section 5 shall apply accordingly.

Repeals.

22. The enactments specified in Schedule 3 to this Act are hereby repealed as from the appointed day to the extent specified in column 3 of that Schedule.

Short title,
citation
and extent.
1939 c. 96.
1956 c. 53.

23.—(1) This Act may be cited as the Teachers Superannuation (Scotland) Act 1968.

(2) The Education (Scotland) (War Service Superannuation) Act 1939, the Teachers (Superannuation) Act 1956 and this Act may be cited together as the Teachers Superannuation (Scotland) Acts 1939 to 1968.

(3) This Act shall extend to Scotland only.

SCHEDULES

SCHEDULE 1

Sections 5, 11.

ACCOUNTS AND ACTUARIAL INQUIRIES

PART I

TEACHERS SUPERANNUATION ACCOUNT

1. The accounting period for which the teachers superannuation account is to be made up shall be the period of twelve months beginning on 1st April in each year.

2. The teachers superannuation account shall be kept in such form and prepared in such manner as may be determined by the Secretary of State after consultation with the Treasury.

3. There shall be treated as having been paid into the revenue of the teachers superannuation account for each accounting period—

- (a) by teachers the amount of personal superannuation contributions paid by them which are attributable to the period ;
- (b) by the employers of teachers, the amount of personal superannuation contributions (including supplementary contributions) paid by them which are attributable to the period ;
- (c) out of moneys provided by Parliament a sum equal to the expenditure during the period upon superannuation and other allowances attributable to service before 1st June 1922 ;
- (d) a sum representing interest at such rate as may be determined in accordance with regulations on the amount of any balance of revenue over expenditure remaining at the end of the last preceding accounting period, and a further sum representing interest at such rate as may be determined as aforesaid on any balance of revenue (other than that further sum) over expenditure during the accounting period in question, and any such regulations may make different provision for different balances and different accounting periods and may provide as respects any balance to which the regulations relate—
 - (i) for the determination of the rate of interest on that balance on the basis of a notional investment of that balance, or of any part or parts thereof, made after consultation with the Government Actuary ; and
 - (ii) for different rates of interest, or different methods of determining the rates of interest, for different parts of that balance ;
- (e) the amount of any balance of revenue over expenditure remaining at the end of the last preceding accounting period ; and
- (f) any other revenue attributable to the period.

SCH 1

4. Expenditure upon superannuation and other allowances attributable to service before 1st June 1922 shall be shown separately from expenditure, attributable to service on or after 1st June 1922, on allowances, gratuities and the return of contributions.

PART II

ACTUARIAL INQUIRIES

5. Every such actuarial inquiry as is referred to in section 5 of this Act and the report upon each inquiry shall be made by the Government Actuary or the Deputy Government Actuary.

6. The first such inquiry after the commencement of this Act shall be made at the end of the accounting period ending 31st March 1971 and subsequent inquiries shall be held at the end of every fifth subsequent accounting period of the teachers superannuation account.

7. An inquiry made in pursuance of section 5 of this Act shall determine whether the value, at the end of the period for which the inquiry is made, of the expenditure (attributable to service on or after 1st June 1922) required to be included in the teachers superannuation account after the end of that period in respect of teachers who then were employed in reckonable service or had previously been employed in reckonable service exceeds the aggregate of—

- (a) the value at the end of that period of the personal superannuation contributions payable after the end of that period in respect of such teachers and of the sums falling to be credited to the teachers superannuation account after the end of that period in accordance with paragraphs (d) and (f) of paragraph 3 of this Schedule ; and
- (b) the balance of revenue over expenditure remaining in the teachers superannuation account at the end of that period.

8. Where an actuarial inquiry reveals such a deficiency as is mentioned in paragraph 7 of this Schedule, the report of the inquiry shall specify the rate per cent. (being a rate of one-quarter of one per cent. or a multiple of one-quarter of one per cent.) at which supplementary contributions are required in respect of the salaries of teachers to whom regulations under section 3(2) of this Act apply in order to make good the deficiency by the expiry of a period of forty years beginning with the accounting period next after that in which the report is made.

SCHEDULE 2

Section 6.

PROVISIONS RELATING TO CONTRIBUTIONS AND BENEFITS

Provisions affecting liability for contributions

1. Provision for securing that no contributions are payable in respect of a teacher for any period after he has completed forty-five years' service of a prescribed description.

2. Provision for securing that any teacher in reckonable service shall not in respect of that service be liable to pay personal superannuation contributions or be entitled to receive superannuation benefits otherwise than under this Act or regulations made under this Act.

Provisions reducing or suspending benefits etc.

3. Provision for reducing the amount of any allowance or gratuity payable under Part I of this Act to or in respect of a teacher in such cases as may be prescribed where a period of reckonable service counts towards superannuation benefits payable otherwise than under this Act as well as an allowance or gratuity payable under Part I of this Act.

4. Provision for reducing or suspending allowances payable to or in respect of teachers who take up employment after such allowances become payable.

5. Provision for suspending or ending allowances payable to teachers who have ceased to be employed in reckonable service by reason of infirmity, if they recover from their infirmity.

6. Provision for withholding, or reducing the amount of, any allowance or gratuity payable to or in respect of a teacher who has been dismissed or has otherwise ceased to serve as a teacher in consequence of grave misconduct or has been guilty of such misconduct as may be determined in accordance with the regulations to have accelerated his death or retirement and, in such cases as may be so determined, for granting any allowance or gratuity which has been so withheld or paying in full the amount of any allowance or gratuity which has been so reduced.

Sections 21, 22.

SCHEDULE 3

ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|----------------------------|---|--|
| 10 & 11 Eliz. 2. c. 47. | The Education (Scotland) Act 1962. | Section 75(1)(b). Part IV. Schedules 3 to 6. |
| 1963 c. 21. | The Education (Scotland) Act 1963. | Section 3. |
| 1965 c. 7. | The Education (Scotland) Act 1965. | The whole Act. |
| 1967 c. 28. | The Superannuation (Miscellaneous Provi- sions) Act 1967. | Section 16. |



National Loans Act 1968

1968 CHAPTER 13

An Act to establish a National Loans Fund, to substitute the National Loans Fund for the Consolidated Fund in certain enactments, including enactments relating to Government lending and advances, the Exchange Equalisation Account and government annuities, to make profits of the Issue Department of the Bank of England payable into the National Loans Fund and to make other provision as to the said Department, to charge the whole of the national debt on the National Loans Fund, and to amend the law about Government borrowing; to make further provision for loans by the Public Works Loan Commissioners, and to authorise advances out of the National Loans Fund for the purpose of such loans; to transfer to Votes certain payments charged on the Consolidated Fund; and generally to make provision for the management of the Government's financial business.

[13th March 1968]

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

1.—(1) The Treasury shall have an account at the Bank of England, to be called the National Loans Fund. The National Loans Fund.

(2) Money paid into the National Loans Fund shall form one general fund to meet all outgoings from the Fund, and daily statements of all money paid into and out of the Fund, in such form as the Treasury may direct, shall be sent by the Bank of England to the Comptroller and Auditor General.

(3) The Comptroller and Auditor General shall from time to time at the request of the Treasury grant credits on the National

Loans Fund for sums payable out of the Fund under this or any other Act and, subject to section 18 of this Act, all payments out of the National Loans Fund shall be made by the Treasury in accordance with credits so granted.

1936 c. 34.
1866 c. 39.

(4) Section 34 of the Finance Act 1936 (signature of requisitions for credits under the Exchequer and Audit Departments Act 1866) shall apply to a request for a credit under subsection (3) above as it applies to such a requisition.

1911 c. 13.

(5) In section 1(2) of the Parliament Act 1911 (which defines a Money Bill as one dealing exclusively with subjects which include the imposition of charges on the Consolidated Fund) after "Consolidated Fund" there shall be inserted "the National Loans Fund".

1889 c. 63.

(6) In section 22 of the Interpretation Act 1889 (definition of financial year) after "Consolidated Fund" there shall be inserted "the National Loans Fund".

(7) No provision in any Act requiring money to be paid into the Exchequer shall be construed as requiring or authorising money to be paid into the National Loans Fund.

(8) Where the intention is that money be paid into the Consolidated Fund it shall be sufficient to enact that it be paid into the Consolidated Fund (instead of enacting that it be paid into the Exchequer).

Government lending

Substitution
of National
Loans Fund
for
Consolidated
Fund in
scheduled
enactments.

2. The enactments in Schedule 1 to this Act (which—

- (a) authorise advances or loans out of the Consolidated Fund, or
- (b) create commencing capital debts or other obligations to the Consolidated Fund, or
- (c) authorise payments out of the Consolidated Fund which are to be repaid out of Votes),

and the enactments in Schedule 2 to this Act (which authorise payments out of the Consolidated Fund under certain international monetary and financial agreements) shall be amended in accordance with those Schedules.

Local loans.

3.—(1) The Treasury may issue out of the National Loans Fund such sums as are required by the Public Works Loan Commissioners (in this Act called the Loan Commissioners) to make loans as authorised by this Act, or by any future Act.

(2) Interest on loans made by the Loan Commissioners shall be paid at such rates as the Treasury may determine from time to time in accordance with section 5 of this Act.

(3) All sums paid or applicable in or towards the discharge of the principal or interest of any loans made by the Loan Commissioners, whether before or after the coming into force of this section, shall be paid by the Loan Commissioners into the National Loans Fund:

Provided that where security for a loan is enforced in any manner the net receipts only shall be so paid into the National Loans Fund.

(4) Any sum payable in respect of Irish land purchase annuities which, but for the provisions of this section, would be payable into the Local Loans Fund under section 26(2) of the Government of Ireland Act 1920, or under any other enactment, shall be paid into the National Loans Fund. 1920 c. 67.

(5) Subject to the limit in this Act, and to any limit in a future Act, the Loan Commissioners' power of making loans shall include power to enter into undertakings to make loans.

(6) The Loan Commissioners shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of all loans made by the Loan Commissioners in the financial year, and of the sums paid or applicable in the financial year in or towards the discharge of the principal or interest of all loans made by the Loan Commissioners, whether before or after the coming into force of this section, and send it to the Comptroller and Auditor General not later than the end of November next following the end of the financial year and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

(7) So much of paragraph (3) of section 5 of the Public Works Loans Act 1875 as fixes the time by which the Loan Commissioners are to send their report of their transactions to the Treasury, and by which the report is to be laid before Parliament, shall cease to have effect. 1875 c. 89.

(8) On 1st April 1968 the Local Loans Fund shall be wound up, and all liabilities of the Local Loans Fund to the Consolidated Fund under section 30(4) of the Finance Act 1935 or section 3(3) of the Local Authorities Loans Act 1945 (repayment of Exchequer advances) shall be extinguished. 1935 c. 24. 1945 c. 18.

(9) As soon as may be after the coming into force of this section, any cash balance standing to the credit of the Local Loans Fund at the close of business on 31st March 1968 shall be paid into the National Loans Fund.

(10) Immediately before the winding up of the Local Loans Fund the principal of the loans made by the Loan Commissioners and described in Schedule 3 to this Act (which are

1887 c. 37.

irrecoverable) shall be extinguished, and all arrears of interest thereon shall be remitted; and the said principal shall, so far as not already so dealt with in pursuance of the Public Works Loans Act 1887, be written off from the account of assets of the Local Loans Fund.

(11) The descriptions of loans which the Loan Commissioners may make are those set out in Schedule 4 to this Act (which correspond in material particulars to the loans which the Loan Commissioners may make under section 9 of the Public Works Loans Act 1875), and that Act and the enactments amending that Act shall apply to loans made in pursuance of this section.

(12) In the following provisions of this Act "local loans" means loans made by the Loan Commissioners in pursuance of this section.

Power to make local loans.

4.—(1) Local loans may be made in the period beginning with 1st April 1968, but the aggregate of—

(a) the commitments of the Loan Commissioners outstanding at any time in respect of undertakings entered into by them to grant local loans; and

(b) the advances in respect of local loans made by the Loan Commissioners under this section up to that time,

shall not exceed the limit specified in subsection (2) below.

(2) The said limit shall be one thousand million pounds, but the Treasury may, on not more than three occasions, by order contained in a statutory instrument, increase or further increase that limit by a sum specified in the order, being a sum not exceeding one thousand million pounds.

The Treasury shall not make an order under this subsection unless a draft of the order has been approved by a resolution of the Commons House of Parliament.

1967 c. 61.

(3) For the purposes of section 1(2) of the Public Works Loans Act 1967 (no sums to be issued under that Act after the end of the period when a further Act comes into operation) the said period shall end with 31st March 1968.

Rates of interest.

5.—(1) This section has effect as respects any rate of interest—

(a) which under any provision in Schedule 1 to this Act is to be fixed in accordance with this Act, or

(b) which is to be determined by the Treasury under section 3 of this Act,

and, where any enactment passed after this Act provides for the payment of interest on advances or loans made out of the National Loans Fund, and for the rate at which that interest is to be payable to be determined or approved by the Treasury,

then, except as otherwise expressly provided, this section has effect as respects that rate of interest.

(2) The Treasury shall, on each occasion when they determine or approve any such rate of interest for a loan or class of loans, satisfy themselves that the rate would be at least sufficient to prevent a loss if—

- (a) the loan, or any loan of that class, was met out of money borrowed by the Treasury at the rate at which the Treasury are for the time being able to borrow money for a comparable period, and on other comparable terms, and
- (b) the interest on the money so borrowed, together with the Treasury's expenses of borrowing, were set off against the interest received on the loan.

(3) If at any time the Treasury are satisfied that a rate of interest fixed for a class of loans no longer meets the requirement in subsection (2) above, that rate shall be redetermined for further loans in accordance with that subsection, and the new rate or rates of interest shall come into effect at the earliest convenient date.

(4) The Treasury may in determining or approving a rate take into account any considerations justifying a rate of interest higher than that required by subsection (2) above.

(5) Different rates may be determined or approved in respect of different sums borrowed for the same length of time.

(6) The Treasury shall cause—

- (a) the rates of interest determined from time to time by them as the lowest rates under this section, and
- (b) all other rates of interest determined from time to time by them in respect of local loans,

to be published in the London and Edinburgh Gazettes as soon as may be after the fixing of those rates.

6.—(1) Subsection (2) below shall have effect for the construction—

- (a) of references in the enactments set out below to the rate of interest in respect of any particular class of loans to local authorities, and
- (b) of references in any other enactment passed, or in any document made, before 27th February 1964 (the date of passing of the Public Works Loans Act 1964) to the rate fixed by the Treasury under section 1 of the Public Works Loans Act 1897 in respect of loans of a particular class.

Rates of interest on local loans.

1964 c. 9.
1897 c. 51.

The said enactments are—

| | |
|-------------|---|
| 1926 c. 56. | section 2(5)(a) of the Housing (Rural Workers) Act 1926 |
| 1935 c. 40. | section 92(2) of the Housing Act 1935 |
| 1935 c. 41. | section 83(2) of the Housing (Scotland) Act 1935 |
| 1950 c. 34. | paragraph 5(1) proviso of Schedule 7 to the Housing (Scotland) Act 1950 |
| 1955 c. 13. | section 1(3)(b) of the Rural Water Supplies and Sewerage Act 1955 |
| 1958 c. 42. | paragraph 7(1) proviso of Schedule 3 to the Housing (Financial Provisions) Act 1958 |
| 1959 c. 25. | section 198(2) of the Highways Act 1959 |
| 1961 c. 65. | section 7(2)(a) of the Housing Act 1961 |
| 1962 c. 28. | section 11(2)(a) of the Housing (Scotland) Act 1962 |
| 1963 c. 29. | section 3(4) of the Local Authorities (Land) Act 1963 |
| 1964 c. 67. | section 7(4) of the Local Government (Development and Finance) (Scotland) Act 1964. |

(2) Any such reference shall be construed, where the time in question falls after 31st March 1968, as a reference to the rate at that time determined by the Treasury in respect of local loans of the class in question made on the security of local rates or, where more than one rate is so applicable, to such one of those rates as the Treasury may from time to time direct either generally or with respect to any particular enactment or document.

The Treasury shall cause any such direction to be published in the London and Edinburgh Gazettes as soon as may be after the giving of the direction.

(3) For the purposes of this section—

(a) the expression “local rate” means any rate levied or assessed, the proceeds of which are applicable to public local purposes, and which is levied on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of such a rate as aforesaid,

(b) the expression “security of local rates” includes a security guaranteed by a local rate.

Use of National Loans Fund for other purposes

The Exchange Equalisation Account.

1932 c. 25.

7.—(1) There shall be issued to the Exchange Equalisation Account out of the National Loans Fund, at such times and in such manner as the Treasury may direct, such sums as the Treasury may determine, and section 24(4) of the Finance Act

1932 (issues out of the Consolidated Fund) shall cease to have effect.

(2) Sums issued to the said Account under subsection (1) above or the said section 24(4) which are for the time being outstanding shall constitute a liability of the said Account to the National Loans Fund.

(3) If at any time the Treasury are of opinion that the assets in sterling of the said Account are for the time being in excess of what is required for the purposes of the Account, the Treasury may direct that the excess shall be paid into the National Loans Fund.

(4) Section 24(2) of the Finance Act 1932 (winding up of 1932 c. 25. Exchange Equalisation Account) shall cease to have effect.

8.—(1) All immediate life annuities mentioned in section 8(1) of the Government Annuities Act 1929, and all immediate savings bank annuities, shall be charged on and issued out of the National Loans Fund, with recourse to the Consolidated Fund. Government annuities. 1929 c. 29.

(2) Accordingly in the said Act,—

(a) in sections 8(1), 19 and 24(3) in Part I, and

(b) in sections 41(1)(3), 55 and 59(3) in Part II,

for “Consolidated Fund” there shall be substituted “National Loans Fund”.

9.—(1) Subject to subsection (5) below, amounts payable to the Treasury under section 6(1) of the Currency and Bank Notes Act 1928 (profits of the Issue Department of the Bank of England) shall be paid into the National Loans Fund. Profits of Issue Department of Bank of England. 1928 c. 13.

(2) The assets held in the said Department shall be valued, at market prices, at such times and in such manner as may be agreed between the Treasury and the Bank of England, but at least once in each financial year.

(3) If, as the result of any such valuation, the value of the assets then held in the said Department falls short of the total amount of the Bank of England notes then outstanding, the Treasury shall assume a liability to the said Department of an amount equal to the difference.

(4) Any liability assumed under subsection (3) above—

(a) shall be included among the assets held to cover the fiduciary note issue in accordance with section 3(1) of the Currency and Bank Notes Act 1928,

(b) shall be subject to such conditions as to repayment and other matters as may be agreed between the Bank of England and the Treasury, but shall not bear interest,

(c) shall be charged on the National Loans Fund with recourse to the Consolidated Fund.

1928 c. 13. (5) So long as any part of any liability assumed under subsection (3) above is outstanding, any amount due to be paid to the Treasury under section 6(1) of the Currency and Bank Notes Act 1928 shall instead be applied towards meeting that liability.

Payments to be made out of Votes

Payments to be made out of Votes and not out of Consolidated Fund.

1945 c. 19
(9 & 10 Geo. 6. c. 19).

1959 c. 17.

1964 c. 13.

1966 c. 21.

10.—(1) The Minister of Overseas Development shall pay out of money provided by Parliament the sums required to make any payments described in the following enactments:

section 2(1)(e) of the Bretton Woods Agreements Act 1945 (subscriptions payable to International Bank for Reconstruction and Development and payments connected with changes in value of currency)

section 1(b) of the International Bank and Monetary Fund Act 1959 (payments to International Bank for Reconstruction and Development)

section 2(1) of the International Development Association Act 1964

section 2(1) of the Overseas Aid Act 1966 (Asian Development Bank).

(2) The following Exchequer receipts shall be accounted for as receipts of the Minister of Overseas Development—

(a) sums received from the International Bank for Reconstruction and Development and payable into the Exchequer under section 2(2) of the Bretton Woods Agreements Act 1945,

(b) any other sums payable into the Exchequer which represent repayment of payments described in the other enactments set out in subsection (1) above, and

(c) any sums payable into the Exchequer under section 2(3) of the International Finance Corporation Act 1955 or section 2(3) of the International Development Association Act 1960.

1955 c. 5
(4 & 5 Eliz. 2. c. 5).

1960 c. 35.

1959 c. 71.

1959 c. 23.

(3) Any sums required by the said Minister for the purpose of loans made by him under section 2 of the Colonial Development and Welfare Act 1959 (loans for approved colonial development programmes), or of advances made to the Commonwealth Development Corporation under the Overseas Resources Development Act 1959, shall be paid out of money provided by Parliament.

(4) The Board of Trade shall pay out of money provided by Parliament such sums as are required to enable the Board—

(a) to acquire securities under section 3(1) of the Export Guarantees Act 1949 (securities guaranteed by the Board), and

(b) to make advances to the National Film Finance Corporation under the Cinematograph Film Production (Special Loans) Act 1949.

(5) Payments under subsection (4) (a) above shall be made on such terms and conditions with respect to repayment, and payment of interest and otherwise, as the Treasury may direct, and shall be paid into the Acquisition of Guaranteed Securities Fund; and the Board of Trade shall out of that Fund repay into the Exchequer payments so made, with interest thereon.

(6) So much of any of the Acts mentioned in subsections (1) and (3) of this section, and of section 8 of the Cinematograph Film Production (Special Loans) Act 1949, as requires the preparation by any Minister or Government department of accounts of sums which under this section are to be paid out of money provided by Parliament shall cease to have effect.

Payments under Planning Acts

11.—(1) The Minister shall pay out of money provided by Parliament any payments falling to be made by him under— Payments under Planning Acts.

(a) section 59 of the Town and Country Planning Act 1947 or section 56 of the Scottish Act of 1947 (war-damaged land), or 1947 c. 51.

(b) any provision of Part I or Part V of the Town and Country Planning Act 1954 or of the Scottish Act of 1954. 1954 c. 72.

(2) Section 194(2) of the Town and Country Planning Act 1962 and section 64(3) of the Scottish Act of 1954 (repayment by instalments out of Votes of sums at (b) of subsection (1) above) shall continue to apply as respects repayment of sums issued (out of the Consolidated Fund) before the coming into force of this section, but shall not apply as respects sums paid under subsection (1) above. 1962 c. 38.

(3) In subsection (2) of the said section 194, and in paragraphs (a) and (c) of subsection (3) of the said section 64 (instalments of repayments to be paid into Exchequer) for “Exchequer” there shall be substituted “National Loans Fund”.

(4) The following enactments shall cease to have effect—

(a) in section 194(4) of the Town and Country Planning Act 1962, and in section 64(4) of the Scottish Act of 1954 (certain receipts by the Minister under the Act

to be treated as paid towards the instalments mentioned in subsection (3) above), as respects sums received by the Minister after the coming into force of this section, the words from “ and shall be treated ” to the end of the subsection,

(b) subsections (6) and (7) of the said section 194 and subsections (6) and (7) of the said section 64 (accounts of sums which under this section are to be paid out of money provided by Parliament, and of sums within the enactments amended by paragraph (a) above).

(5) In this section—

1962 c. 38.

“ the Minister ” has the same meaning as in the Town and Country Planning Act 1962, or as the case may be the Scottish Act of 1947 ;

1947 c. 53.

“ the Scottish Act of 1947 ” means the Town and Country Planning (Scotland) Act 1947 ;

1954 c. 73.

“ the Scottish Act of 1954 ” means the Town and Country Planning (Scotland) Act 1954.

National debt

12.—(1) Any money required—

(a) for providing the sums required to meet any excess of payments out of the National Loans Fund over receipts into the National Loans Fund, and

(b) for providing any necessary working balance in the National Loans Fund,

may be raised in such manner and on such terms and conditions as the Treasury think fit, and money so raised shall be paid into the National Loans Fund.

(2) For the purpose of raising money under this section the Treasury may create and issue such securities, at such rates of interest and subject to such conditions as to repayment, redemption and other matters (including provision for a sinking fund) as they think fit.

(3) For the avoidance of doubt it is hereby declared that the power to raise money under this section extends to raising money either within or outside the United Kingdom and either in sterling or in any other currency or medium of exchange, whether national or international.

(4) The principal of and interest on any money borrowed under this section, and of any money due under securities issued under this section, and—

(a) any sums required to be set aside for the purpose of any sinking fund established under this section,

(b) any other sums to be paid by the Treasury in accordance with the terms on which they borrow,

Power of
Treasury to
borrow.

(c) any expenses incurred in connection with the raising of money or the issue, repayment or redemption of securities under this section, shall be charged on and paid out of the National Loans Fund with recourse to the Consolidated Fund.

(5) The power to raise money under this section extends—

(a) to raising money through the Post Office, and in particular by the issue through the Post Office of national savings certificates, and by the issue of the stamps and tokens described in section 35 of the Finance Act 1961 (national savings stamps and gift tokens), and 1961 c. 36.

(b) to raising money by the issue of Treasury Bills under the Treasury Bills Act 1877. 1877 c. 2.

(6) In raising money under this section by the creation and issue—

(a) of tax reserve certificates, national development bonds, or premium savings bonds, or

(b) of national savings certificates,

any stock of forms prepared before the passing of this Act may be employed, pending the printing and issue of new forms, notwithstanding that the forms were prepared by reference to the raising of money under the National Loans Act 1939 or, as the case may be, section 7 of the National Debt Act 1958, and any security so issued shall be valid and effectual as if purporting to be issued in pursuance of this section instead of purporting to be issued in pursuance of the said Act of 1939 or the said Act of 1958. 1939 c. 117. 1958 c. 6 (7 & 8 Eliz. 2. c. 6).

(7) The Bank of England may lend any sums which the Treasury have power to borrow under this section, and section 1 of the Bank of England Act 1819 (loans by Bank to Crown to require authority of Parliament) shall cease to have effect. 1819 c. 76.

13.—(1) All payments to be made in respect of existing national debt, being payments which are charged on the Consolidated Fund, shall be charged on and paid out of the National Loans Fund. Existing national debt.

(2) Subsection (1) of this section shall not be in derogation of the said charge on the Consolidated Fund, or of the provisions of section 1 of the Consolidated Fund Act 1816 (which makes the national debt a prior charge on the Consolidated Fund), and accordingly all such payments shall be charged on the National Loans Fund with recourse to the Consolidated Fund. 1816 c. 98.

(3) In this section “existing national debt” means all securities of Her Majesty’s Government in the United Kingdom

outstanding on 31st March 1968, including Treasury Bills and Ways and Means advances, and all other liabilities in respect of money borrowed by Her Majesty's Government in the United Kingdom and outstanding on 31st March 1968, and those liabilities include, as well as payments in respect of principal and interest, payments for the purpose of any sinking fund and any other payments due under the terms on which any such security was issued, or any such money was borrowed.

(4) Any expenses incurred in connection with the raising of money or the issue, repayment or redemption of securities which represent expenses incurred, whether before or after the coming into force of this section, in respect of existing national debt shall be paid out of the National Loans Fund, with recourse to the Consolidated Fund.

1939 c. 117.

(5) Section 4 of the National Loans Act 1939 (power of trustees and others to invest in government securities) shall cease to have effect, but not so as to invalidate anything done before the coming into force of this Act.

(6) Schedule 5 to this Act shall have effect for the purpose of making amendments consequential on this and the last foregoing section.

(7) Any reference in any enactment passed before this Act to securities which are charged on the Consolidated Fund shall include a reference to securities which are charged on the National Loans Fund with recourse to the Consolidated Fund; and any reference in any such enactment to securities which are directly charged on the Consolidated Fund shall be construed in a corresponding manner.

Exchange of securities, etc.

14.—(1) The powers conferred by section 12 of this Act shall include power to enter into agreements for varying the terms on which Her Majesty's Government in the United Kingdom have borrowed money or issued securities (whether before or after the passing of this Act), and shall include power to create and issue securities for the purpose of any such agreement.

(2) The Treasury may in particular, for the purpose of carrying out any arrangement made by them for the exchange (whether on or before maturity, and whether with or without any further payment) of any securities of Her Majesty's Government in the United Kingdom, create and issue such other securities under section 12 of this Act as the Treasury think fit.

(3) The Treasury may make rules with respect to the surrender, issue or exchange of securities in pursuance of this section, and may by those rules provide, with any necessary modifications, for any of the matters for which provision could

be made under section 29 of the National Debt (Conversion) 1888 c. 2. Act 1888, and may also by those rules apply, with the necessary modifications, any of the provisions of Part IV of that Act (whether repealed or not) which they think it expedient to apply.

(4) Rules made under subsection (3) above with respect to the exchange of securities in pursuance of an arrangement which includes an offer of securities in exchange for securities which are to be redeemed may include provision—

- (a) for requiring holders of the securities which are to be redeemed desiring to receive repayment in cash in respect of their holdings on the date fixed for the redemption thereof to make an application in that behalf in accordance with the rules, and
- (b) for securing that, if no such application is made with respect to any such securities within such period as may be provided in the rules, the holder thereof shall be deemed, subject to the provisions of the rules, to have accepted the offer.

(5) Rules under subsection (3) above may specify the persons by whom an application accepting an offer of exchange of securities, or an application required under subsection (4) above, may be made in cases where—

- (a) any holder of securities which may be exchanged has died, or is outside the United Kingdom, or is of unsound mind, or is an infant, pupil or minor, or is otherwise under a disability, or
- (b) a stop notice is in force with respect to a holding.

(6) The Treasury may cancel any securities surrendered to them under this section, and may also undertake to make payments, upon such terms and conditions as they think fit, to holders of securities so surrendered, or otherwise as part of the arrangement or agreement.

(7) A warrant given by the Bank of England or the Bank of Ireland for making any such payment shall be deemed to be a cheque within the meaning of the Bills of Exchange Act 1882 1882 c. 61. and shall be exempt from stamp duty.

(8) Any money required by the Treasury for the purpose of carrying out any such arrangement shall be charged on and paid out of the National Loans Fund with recourse to the Consolidated Fund.

(9) Any money received by the Treasury under this section shall be paid into the National Loans Fund.

1939 c. 117.
1958 c. 6
(7 & 8 Eliz. 2.
c. 6).

(10) Section 2 of the National Loans Act 1939 (exchange of securities) and section 9 of the National Debt Act 1958 (exchange of savings certificates) shall cease to have effect, but—

- (a) any rules in force under either of those sections on 31st March 1968 shall continue in force as if made under this section, and may be varied or revoked accordingly, and
- (b) any arrangements pending under either of those sections on 31st March 1968 shall be carried out and concluded under this section.

(11) Rules under this section shall be made by statutory instrument which, if the rules consist of or include any provision made in pursuance of subsection (4) above, shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Payments
out of
Consolidated
Fund for
service of
national debt.

15.—(1) The Treasury shall from time to time pay out of the Consolidated Fund into the National Loans Fund sums equal to the excess of the amounts required to meet charges on the National Loans Fund for the service of national debt over the amounts paid into the National Loans Fund which represent interest on loans by the Government or which, in the opinion of the Treasury, ought to be treated in the same way as interest on loans by the Government.

1866 c. 39.

(2) Notwithstanding the provisions of section 13 of the Exchequer and Audit Departments Act 1866, payments under this section shall be effected without the granting of credits by the Comptroller and Auditor General.

(3) In this section “charges on the National Loans Fund for the service of national debt” means all payments to be made out of the National Loans Fund which represent—

- (a) interest on debt charged on the National Loans Fund,
- (b) expenses incurred in connection with the raising of money or the issue, repayment or redemption of securities,
- (c) money required for the purpose of carrying out any arrangement under the last foregoing section, or
- (d) sums payable under subsection (6) or (7) of section 16 of this Act.

Supplemental
provisions as
to national
debt.

1921 c. 32.

16.—(1) Subject to subsection (2) below, the definitions of “government stock” in—

- (a) section 51 of the Finance Act 1921,
- (b) section 15 of the National Debt Act 1958,

shall include securities issued under this Act, other than national savings certificates, premium savings bonds, national savings stamps and national savings gift tokens, and in section 43(2) of

the Finance Act 1956 (enactments relating to lotteries: saving 1956 c. 54. for premium bonds under the National Loans Act 1939) the 1939 c. 117. reference to the said Act of 1939 shall include a reference to this Act.

(2) The Treasury may by order in a statutory instrument, subject to annulment in pursuance of a resolution of the House of Commons, exclude from either or both of the said definitions of "government stock" any description of securities issued under this Act.

(3) Stock or registered bonds issued under this Act, other than premium savings bonds, shall be included in Part I of Schedule 11 to the Finance Act 1942 (transfer and registration 1942 c. 21. of government stock).

(4) Stock or registered bonds issued under this Act shall be subject to the provisions of the National Debt Act 1870 so 1870 c. 71. far as is consistent with the tenor of this Act.

(5) Section 196 of the Income Tax Act 1952 (interest on Gov- 1952 c. 10. ernment securities payable without deduction of tax) shall have effect as if securities issued under this Act were among those described in paragraphs (a) to (d) of subsection (1) of that section.

(6) The Treasury shall from time to time pay to trustee savings banks, as consideration for the performance by them of the functions conferred on them by the National Debt Act 1958, such amounts as may be determined by the Treasury after 1958 c. 6 (7 & 8 Eliz. 2. consultation with the Trustee Savings Banks Association. c. 6).

Payments under this subsection shall be made out of the National Loans Fund with recourse to the Consolidated Fund.

(7) There shall be paid out to the Banks of England and Ireland, and into the Post Office Fund, such sums in respect of the management in the year ending 31st March 1968 or any subsequent financial year of any Government securities as may be agreed upon between the Treasury on the one hand and the Bank of England, the Bank of Ireland and the Postmaster General respectively on the other hand.

In this subsection "Government securities" means securities of Her Majesty's Government in the United Kingdom and securities issued under—

| | |
|-------------------------------------|-------------|
| Part II of the Tithe Act 1936, | 1936 c. 43. |
| the Irish Land Act 1903, | 1903 c. 37. |
| the Irish Land Act 1909, | 1909 c. 42. |
| the Northern Ireland Land Act 1925. | 1925 c. 34. |

(8) Sums payable under subsection (7) above to the Banks of England and Ireland—

(a) shall, so far as they relate to Government securities in respect of which registers are kept by the Bank of

England and Bank of Ireland respectively, be calculated on the nominal amount, as certified by the National Debt Commissioners, of such securities outstanding at the end of the financial year ending last before the financial year for which the sums are payable, and

(b) shall be payable before 30th June next following the end of the financial year for which the sums are payable.

(9) Sums payable under subsection (7) above shall be met out of the National Loans Fund with recourse to the Consolidated Fund, except that—

1936 c. 43.

(a) sums payable in respect of securities issued under Part II of the Tithe Act 1936 shall be paid out of the Redemption Annuities Account under section 25 of that Act, and

(b) sums payable in respect of securities issued under the said Acts of 1903, 1909 and 1925 shall be payable as part of the expenses of the National Debt Commissioners on account of Irish land purchase services under the said Act of 1903 as modified by Part III of Schedule 2 to the Irish Free State (Consequential Provisions) Act 1922 and section 6 of the Northern Ireland Land Purchase (Winding Up) Act 1935.

1922 c. 2
(13 Geo. 5
(Sess. 2) c. 2).
1935 c. 21.

Repeal of provisions for paying off debt, or applying sums to meet interest charges.

1875 c. 45.
1930 c. 28.

17.—(1) Section 5 of the Sinking Fund Act 1875 (the old sinking fund) and section 48 of the Finance Act 1930 (provision for deficit in any year: sums to be applied in following year in the same manner as the old sinking fund) shall cease to have effect.

(2) So much of any enactment as provides for sums paid into the Consolidated Fund to be applied in redeeming or paying off debt (that is to say national debt) or meeting such part of the annual charges for the national debt as represents interest, shall cease to have effect.

Relations of the two Funds

Daily balancing of Consolidated Fund.

18.—(1) At the commencement of business on 1st April 1968 the Treasury shall pay out of the Consolidated Fund into the National Loans Fund any balance in the Consolidated Fund at the close of business on the last previous working day.

(2) On any day (from 1st April 1968 onwards) on which payments into the Consolidated Fund exceed payments out of the Consolidated Fund the Treasury shall pay out of the Consolidated Fund into the National Loans Fund sums equal to that excess.

(3) On any day (from 1st April 1968 onwards) on which payments out of the Consolidated Fund exceed payments into the Consolidated Fund the Treasury shall pay out of the National

Loans Fund into the Consolidated Fund sums equal to that excess.

(4) All payments made on any day (from 1st April 1968 onwards) into the Consolidated Fund by way of payment into the Exchequer Account at the Belfast branch of the Bank of Ireland shall be paid at the close of business on that day into the Exchequer Account at the Bank of England.

(5) Notwithstanding the provisions of section 13 of the 1866 c. 39. Exchequer and Audit Departments Act 1866 and of section 1(3) of this Act, payments under this section shall be effected without the granting of credits by the Comptroller and Auditor General.

19.—(1) The excess for the time being of the liabilities of the National Loans Fund over its assets shall be a liability of the Consolidated Fund to the National Loans Fund. Liabilities and assets of National Loans Fund.

(2) Sums paid under section 15 of this Act shall be deemed for all purposes to be in satisfaction of the payment of interest in respect of the liability of the Consolidated Fund to the National Loans Fund imposed by subsection (1) above.

(3) The Treasury shall prepare a statement in such form as they see fit showing, as at the commencement of business on 1st April 1968, the liabilities of the National Loans Fund and its assets, including the liability of the Consolidated Fund to the National Loans Fund imposed by subsection (1) above, and shall lay copies of the statement before each House of Parliament not later than 31st December 1968.

(4) For the purposes of this section the liabilities of the National Loans Fund shall be the nominal amount of the debt outstanding and charged to that Fund, as determined by the Treasury, and the assets of that Fund shall be the amount of principal, as so determined, of advances, loans and other payments outstanding and due to that Fund.

20.—(1) The Treasury shall have power by order to provide that any payments which, under a provision in any Act passed before, or in the same session as, this Act, are to be paid out of the Consolidated Fund, or are to be paid into the Consolidated Fund (whether or not expressed as a provision for payment into the Exchequer) shall be paid out of the National Loans Fund, or as the case may be shall be paid into the National Loans Fund. Power to substitute National Loans Fund for Consolidated Fund in existing Acts.

(2) An order under this section—

(a) shall not be made unless a draft of the order has been approved by a resolution of the Commons House of Parliament,

(b) shall be made by statutory instrument,

(c) may contain such transitional or other supplemental or incidental provisions as appear to the Treasury to be expedient, including provisions amending any Act passed before or after this Act.

Supplemental

Audit and accounts.

21.—(1) For the financial year ending on 31st March 1969 and each subsequent financial year the Treasury shall prepare in such form as they may prescribe an account of payments into and out of the Consolidated Fund and an account of payments into and out of the National Loans Fund during the year.

(2) The Treasury shall send the accounts to the Comptroller and Auditor General not later than the end of November following the end of the financial year to which they relate, and the Comptroller and Auditor General shall examine, certify and report on the accounts and lay copies of them, together with his report, before each House of Parliament.

(3) For each such financial year the Treasury shall also prepare in such form as they may determine statements containing additional information regarding the transactions, assets and liabilities of the Consolidated Fund and of the National Loans Fund, and shall lay copies of the statements before each House of Parliament not later than 31st December next following the end of the financial year to which the statements relate.

(4) No accounts or statements shall be prepared for any financial year after that ending on 31st March 1968 under—

1816 c. 98.

section 22 of the Consolidated Fund Act 1816,

1854 c. 94.

section 2 of the Public Revenue and Consolidated Fund Charges Act 1854,

1866 c. 39.

section 21 of the Exchequer and Audit Departments Act 1866, or

1875 c. 45.

section 4 of the Sinking Fund Act 1875.

Interpretation.

22.—(1) In this Act “Loan Commissioners” and “local loans” have the meanings given by section 3 of this Act.

(2) Any provision in this Act, or in the Acts amended by this Act, charging payments on the National Loans Fund “with recourse to” the Consolidated Fund shall be construed as a requirement that the payment, if it is not made out of the National Loans Fund, shall be charged on and paid out of the Consolidated Fund.

(3) In this Act “securities of Her Majesty’s Government in the United Kingdom” includes national savings certificates and

premium savings bonds but does not include securities issued under—

- Part II of the Tithe Act 1936, 1936 c. 43.
- the Irish Land Act 1903, 1903 c. 37.
- the Irish Land Act 1909, 1909 c. 42.
- the Northern Ireland Land Act 1925. 1925 c. 34.

(4) Any reference in this Act to any enactment includes a reference to that enactment as amended by any other Act including this Act.

23.—(1) This Act extends to Northern Ireland.

Application to
Northern
Ireland.
1920 c. 67.

(2) For the purpose of section 6 of the Government of Ireland Act 1920, this Act shall, so far as it relates to matters within the power of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

24.—(1) This Act may be cited as the National Loans Act 1968.

Short title,
repeals and
commence-
ment.

(2) The enactments mentioned in Schedule 6 to this Act (which include enactments conferring powers of government borrowing superseded by this Act and enactments which are obsolete or spent) shall be repealed to the extent specified in the third column of that Schedule, but subject to any saving at the end of any Part of that Schedule.

(3) Except as otherwise expressly provided, this Act shall come into force on 1st April 1968 and have effect for the financial year beginning on that date and subsequent financial years.

SCHEDULES

Section 2.

SCHEDULE 1

GOVERNMENT LENDING AND ADVANCES

| <i>Section</i> | <i>Subject matter</i> | <i>Amendment</i> |
|----------------|---|---|
| | Tithe Act 1936 (1936 c. 43) | |
| 26(1) ... | Temporary advances to meet deficiencies in Redemption Annuities Account | For "Consolidated Fund" read "National Loans Fund". |
| 26(3) ... | Repayment of advances with interest at rate fixed by Treasury | Repayment of all advances, past or future, is to be made into the National Loans Fund. Rate of interest to be fixed in accordance with this Act. |
| 28(1) ... | Winding-up of financial arrangements | The second reference to the Consolidated Fund shall include a reference to the National Loans Fund. |
| | Coal Industry Nationalisation Act 1946 (1946 c. 59) | |
| 28(1)(b) ... | Interest on loans to National Coal Board at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| 28(2) ... | Interest on loans to National Coal Board to be paid into Exchequer | Sums received under section 28(1)(b) shall be paid into the National Loans Fund, and not into the Exchequer. |
| 34(1) ... | Loans to National Coal Board | For "Consolidated Fund" read "National Loans Fund". |
| | New Towns Act 1946 (1946 c. 68) | |
| 12(1) ... | Advances to development corporations in Scotland on terms approved by Treasury | Rate of interest to be fixed in accordance with this Act. |
| 12(3) ... | Advances to development corporations | For "Consolidated Fund" read "National Loans Fund". |

| <i>Section</i> | <i>Subject matter</i> | <i>Amendment</i> | SCH. 1 |
|----------------|--------------------------|---|---------------|
| 12(5), 13(4) | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". | |

Gas Act 1948
(1948 c. 67)

In section 42(2)(aa) as amended by the Electricity and Gas Act 1963 (which defines "Exchequer advances") and throughout the rest of the Act for "Exchequer advances" read "Government advances".

Armed Forces (Housing Loans) Act 1949
(1949 c. 77)

| | | | |
|------------|---------------------------------------|---|--|
| 1(3)(a)(c) | Repayment out of Votes into Exchequer | For "Exchequer" read "National Loans Fund". | |
|------------|---------------------------------------|---|--|

Miscellaneous Financial Provisions Act 1950
(1950 c. 21)

| | | | |
|------|--|--|--|
| 2(1) | ... Loans to Northern Ireland Government | For "Consolidated Fund of the United Kingdom" read "National Loans Fund". | |
| 2(3) | ... Repayment into Exchequer | For references to the Exchequer substitute references to the National Loans Fund. Rate of interest to be fixed in accordance with this Act. | |

Housing (Scotland) Act 1950
(1950 c. 34)

| | | | |
|-------|--|---|--|
| 94(1) | ... Advances to Scottish Special Housing Association on terms approved by Treasury | Rate of interest to be fixed in accordance with this Act. | |
| 94(2) | ... Issue of advances out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". | |
| 94(4) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". | |

Sugar Act 1956
(1956 c. 48)

| | | | |
|------|--------------------------------|---|--|
| 5(2) | ... Advances to Sugar Board... | For "Consolidated Fund" read "National Loans Fund". | |
|------|--------------------------------|---|--|

| SCH. 1 | Section | Subject matter | Amendment |
|--------|-------------|---|---|
| | 5(4)(a) ... | Interest on advances at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| | 5(5) ... | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |

Finance Act 1956
(1956 c. 54)

| | | | |
|--|-----------|--|---|
| | 42(6) ... | Repayment of advances to nationalised industries | For "Exchequer" read "National Loans Fund". |
|--|-----------|--|---|

Electricity Act 1957
(1957 c. 48)

In section 15(7) (defining "Exchequer advances") and throughout the rest of the Act, for "Exchequer advances" substitute "Government advances".

Housing (Financial Provisions) Act 1958
(1958 c. 42)

| | | | |
|--|--------------|----------------------------------|--|
| | 17(3) ... | Advances to housing associations | For "Consolidated Fund of the United Kingdom" read "National Loans Fund". |
| | 17(7)(8) ... | Repayment into Exchequer | The advances shall bear interest at a rate fixed by the Treasury in accordance with this Act. For "Exchequer" read "National Loans Fund". |

Armed Forces (Housing Loans) Act 1958
(1958 c. 1—7 & 8 Eliz. 2.)

| | | | |
|--|-------|--|--|
| | 2 ... | Method of repayment into Exchequer of issues under Armed Forces (Housing Loans) Act 1949 | For "Exchequer" read "National Loans Fund" throughout. In subsection (2) of the said section 2 for the words from "be applied" to the end of the subsection substitute "be treated as a payment in satisfaction of an amount of principal". |
|--|-------|--|--|

| <i>Section</i> | <i>Subject matter</i> | <i>Amendment</i> | SCH. 1 |
|---|---|---|--------|
| House Purchase and Housing Act 1959 (1959 c. 33) | | | |
| 2(5) | ... Advances to building societies | For "Consolidated Fund" read "National Loans Fund". | |
| 2(6) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". | |
| Post Office Act 1961 (1961 c. 15) | | | |
| 9(1) | ... Advances to Postmaster General | For "Consolidated Fund" read "National Loans Fund". | |
| 9(2) | ... Interest at rate directed by Treasury | Rate of interest to be fixed in accordance with this Act. | |
| 9(4) | ... Repayment into Exchequer | For "Exchequer of the United Kingdom" read "National Loans Fund". | |
| 13(2) | ... Initial capital liability of Post Office Fund to Exchequer | For "that Exchequer" in both places read "the National Loans Fund". | |
| Covent Garden Market Act 1961 (1961 c. 49) | | | |
| 40(1) | ... Advances to Covent Garden Market Authority | For "Consolidated Fund of the United Kingdom" read "National Loans Fund". | |
| 40(4) | ... Interest at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. | |
| 40(6) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". | |
| Housing Act 1961 (1961 c. 65) | | | |
| 7(5) | ... Advances to housing associations | For "Consolidated Fund" read "National Loans Fund". | |
| 7(6) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". | |

H

| SCH. 1 | Section | Subject matter | Amendment |
|---|--------------------------|---|---|
| Housing (Scotland) Act 1962 (1962 c. 28) | | | |
| 11(5) | ... | Advances to housing associations, and, through section 18(3), to Scottish Special Housing Association | For "Consolidated Fund" read "National Loans Fund". |
| 11(6) | ... | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| Transport Act 1962 (1962 c. 46) | | | |
| 20(2) | ... | Loans to Transport Boards bearing interest at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| 20(3) | ... | Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| 20(5)(6) | ... | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| 39(8) | ... | Payments into Exchequer in respect of commencing capital debt | For "Exchequer" read "National Loans Fund". |
| Electricity and Gas Act 1963 (1963 c. 59) | | | |
| 2(3) | ... | Advances to Electricity and Gas Authorities bearing interest at rate directed by the Minister or Secretary of State with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| 2(4) | ... | Issue of advances out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| 2(6)(7) | ... | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| Schedule 1 | Consequential amendments | | For "Exchequer advances" read "Government advances" throughout. |
| Shipbuilding Credit Act 1964 (1964 c. 7) | | | |
| 1(5) | ... | Loans for construction or alteration of ships bearing interest at rate directed by Treasury | Rate of interest to be fixed in accordance with this Act. |

| <i>Section</i> | <i>Subject matter</i> | <i>Amendment</i> |
|----------------|---|---|
| 2(1) ... | Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| 2(3) ... | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |

Harbours Act 1964
(1964 c. 40)

| | | |
|--------------|--|---|
| 6(1)(b) ... | Loans to National Ports Council | For "Consolidated Fund" read "National Loans Fund". |
| 11(1) ... | Loans for execution of harbour works etc. | For "Consolidated Fund" read "National Loans Fund". |
| 43(1) ... | Loans under ss. 6 and 11 to bear interest at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| 43(2) ... | Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| 43(4)(5) ... | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |

Housing Act 1964
(1964 c. 56)

| | | |
|-------------|---|---|
| 9(1) ... | Advances to Housing Corporation bearing interest at rate directed by the Minister or Secretary of State with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| 9(3) ... | Issue of advances out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| 9(5), 10(4) | Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |

Armed Forces (Housing Loans) Act 1965
(1965 c. 9)

| | | |
|---------------------|---|---|
| Part II of Schedule | Section 1 of Armed Forces (Housing Loans) Act 1949 set out as amended | In section 1(3)(a)(c) for "Exchequer" read "National Loans Fund". |
|---------------------|---|---|

Airports Authority Act 1965
(1965 c. 16)

| | | |
|----------|--|---|
| 4(5) ... | Payment into Exchequer in respect of commencing capital debt | For "Exchequer" read "National Loans Fund". |
|----------|--|---|

| SCH. 1 | Section | Subject matter | Amendment |
|--------|---------|--|---|
| | 6(2) | ... Loans to Airport Authority bearing interest at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| | 6(3) | ... Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| | 6(5) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| | 8(3) | ... Accounts | After "Exchequer" insert "or the National Loans Fund". |

New Towns Act 1965
(1965 c. 59)

| | | | |
|--|-------------|--|---|
| | 42(1)(4)(5) | Loans to development corporations and the Commission for the New Towns on terms approved by Treasury | Rate of interest to be fixed in accordance with this Act. |
| | 44(1) | ... Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| | 44(3) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| | 45 | ... Payment of surplus funds of Commission into Exchequer | Any sum treated under subsection (2) of the section as a repayment of a loan shall be paid by the Minister into the National Loans Fund, instead of being paid into the Consolidated Fund as required by subsection (1) of the section. |
| | 46(5) | ... Accounts | In paragraph (a) for the first "Exchequer" read "National Loans Fund" and in paragraph (b) for "Exchequer" read "National Loans Fund". |

Redundancy Payments Act 1965
(1965 c. 62)

| | | | |
|--|--------------|--|--|
| | 35(1), 55(3) | Advances for purposes of Redundancy Fund | For "Consolidated Fund" read "National Loans Fund". |
| | 35(4) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". Rate of interest to be fixed in accordance with this Act. |

| <i>Section</i> | <i>Subject matter</i> | <i>Amendment</i> | SCH. 1 |
|---|--|--|--------|
| Military Aircraft (Loans) Act 1966 (1966 c. 15) | | | |
| 1(1) | ... Issues for purchase of military aircraft etc. | For "Consolidated Fund" read "National Loans Fund". | |
| 2(1) | ... Repayment out of Votes into Exchequer | For "Exchequer" read "National Loans Fund". | |
| Docks and Harbours Act 1966 (1966 c. 28) | | | |
| 41(9)(10) | Payment into Exchequer of amounts in respect of debt assumed under a harbour revision order or harbour reorganisation scheme | For "Exchequer" read "National Loans Fund". | |
| Industrial Reorganisation Corporation Act 1966 (1966 c. 50) | | | |
| 4(2) | ... Loans to Industrial Reorganisation Corporation bearing interest at rate directed by Secretary of State with approval of Treasury | Rate of interest to be fixed in accordance with this Act. | |
| 4(3) | ... Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". | |
| 4(5) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". | |
| 8(3) | ... Annual account of loans ... | After "Exchequer" insert "or National Loans Fund". | |
| Tees and Hartlepoons Port Authority Act 1966 (1966 c. xxv) | | | |
| 32(6)(7) | ... Payment into Exchequer of amounts in respect of transferred loans | For "Exchequer" read "National Loans Fund". | |
| Land Commission Act 1967 (1967 c. 1) | | | |
| 3(1) | ... Government loans to Land Commission | For "Consolidated Fund" read "National Loans Fund". | |
| 3(4) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". Rate of interest to be fixed in accordance with this Act. | |

| SCH. 1 | Section | Subject matter | Amendment |
|--------|----------|--|---|
| | | Iron and Steel Act 1967 (1967 c. 17) | |
| | 18(3) | ... Repayment into Exchequer of commencing capital debt of British Steel Corporation | For "Exchequer" read "National Loans Fund". |
| | 20(2) | ... Loans to Corporation bearing interest at rate directed by the Minister with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| | 20(3) | ... Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| | 20(5) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| | | Air Corporations Act 1967 (1967 c. 33) | |
| | 8(2) | ... Loans to air corporations bearing interest at rate directed by Board of Trade with approval of Treasury | Rate of interest to be fixed in accordance with this Act. |
| | 8(3) | ... Issue of loans out of Consolidated Fund | For "Consolidated Fund" read "National Loans Fund". |
| | 8(5)(6) | ... Repayment into Exchequer | For "Exchequer" read "National Loans Fund". |
| | | Shipbuilding Industry Act 1967 (1967 c. 40) | |
| | 4(6) | ... Loans in connection with grouping schemes bearing interest at rate approved by the Minister and Treasury | Rate of interest to be fixed in accordance with this Act. |
| | 10(1) | ... Issue out of Consolidated Fund of sums to be used for loans | For "Consolidated Fund" read "National Loans Fund". |
| | 10(5) | ... Repayment into Exchequer | Sums received under section 10(4)(a) (repayment of loans and interest) shall be paid into National Loans Fund and not into Exchequer. |
| | 10(7) | ... Indebtedness discharged by issue of shares | For "Exchequer" read "National Loans Fund". |
| | 10(8)(a) | ... Annual account ... | After "Exchequer" insert "or the National Loans Fund". |

SCHEDULE 2

Section 2.

**INTERNATIONAL MONETARY AND FINANCIAL
AGREEMENTS**

**Bretton Woods Agreements Act 1945
(1945 c. 19—9 & 10 Geo. 6.)**

Sums required for the purpose of paying the subscriptions, compensation and other sums described in paragraphs (a), (b), (c) and (d) of section 2(1) shall be paid out of the National Loans Fund.

Sums received by Her Majesty's Government in the United Kingdom from the International Monetary Fund (other than sums received by reason of the operations of the Exchange Equalisation Account) shall be paid into the National Loans Fund.

In section 2(4) (creation of notes or other obligations charged on Consolidated Fund) after "charged on" insert "the National Loans Fund with recourse to".

**European Monetary Agreement Act 1959
(1959 c. 11)**

In section 2(1) (payments by U.K. Government under Agreement) for references to the Consolidated Fund substitute references to the National Loans Fund.

In section 2(2) (limit on payments) the reference to the Consolidated Fund shall include a reference to the National Loans Fund, so that the limit applies to the aggregate of sums paid out of the two Funds.

In section 2(4) (repayments into Exchequer) for "Exchequer" read "National Loans Fund".

**International Development Association Act 1960
(1960 c. 35)**

In section 2(4) (creation of notes or other obligations charged on Consolidated Fund) after "charged on" insert "the National Loans Fund with recourse to".

Section 3.

SCHEDULE 3

LOCAL LOANS TO BE EXTINGUISHED

PART I

LOANS TO BE WRITTEN OFF AND EXTINGUISHED

1861 c. 47.

Loans by Loan Commissioners under the Harbours and Passing Tolls, &c. Act 1861.

| Name of Borrower | Amount of loan | Amount of principal to be written off and extinguished |
|-------------------------------------|----------------|--|
| Peterhead Harbours Trustees ... | £ 46,000 | £ s. d. 36,826 18 10 |
| Wick and Pulteney Harbours Trustees | 35,000 | 28,354 10 8 |

Loans by Loan Commissioners under the South Staffordshire Mines Drainage Acts 1873 to 1914.

| Name of Borrower | Amount of loan | Amount of principal to be written off and extinguished |
|---|----------------|--|
| South Staffordshire Mines Drainage Commissioners | £ 140,000 | £ s. d. 40,593 12 9 |

PART II

LOANS ALREADY WRITTEN OFF TO BE EXTINGUISHED

Loan by Loan Commissioners under the general powers contained in 5 & 6 Vict. c. 9.

| Name of Borrower | Amount of loan | Amount of principal previously written off and now to be extinguished | Enactment under which principal written off |
|---|----------------|---|---|
| Maldon Harbour Improvement Commissioners. | £ 10,000 | £ s. d. 9,287 10 0 | S. 3 of Public Works Loans Act 1887. |

SCHEDULE 4

Section 3.

LOCAL LOANS

1. Loans to any local authority for any purpose for which the authority have power to borrow, whether by virtue of any enactment or otherwise.

In this paragraph "local authority" means—

- (a) any authority in Great Britain being, within the meaning of the Local Loans Act 1875, an authority having power to levy a rate, 1875 c. 83.
- (b) any port health authority or joint board constituted by an order under the Public Health Act 1936, or under any 1936 c. 49. enactment repealed by that Act,
- (c) any joint board in Scotland as defined by section 379(1) of the Local Government (Scotland) Act 1947. 1947 c. 43.

2. Loans to any authority in Great Britain under—

- Section 3 of the Harbours and Passing Tolls, &c., Act 1861. 1861 c. 47.
- Section 663 of the Merchant Shipping Act 1894, (lighthouses, 1894 c. 60. buoys and beacons).

3. Loans to any person under section 78 of the Housing (Scotland) 1950 c. 34. Act 1950 or section 47 of the Housing (Financial Provisions) Act 1958 c. 42. 1958 (loans to companies, housing associations and individuals for housing).

SCHEDULE 5

Section 13.

NATIONAL DEBT: CONSEQUENTIAL AMENDMENTS

Bank of England Act 1861
(1861 c. 3)

In section 5 (issues out of Consolidated Fund to meet dividends) for "Consolidated Fund" read "National Loans Fund".

National Debt Act 1870
(1870 c. 71)

In section 6 (charge of stock on Consolidated Fund) after "payable out of" insert "the National Loans Fund with recourse to".

In sections 12 and 14 (issue of money to pay dividends) for "consolidated fund" read "National Loans Fund".

Treasury Bills Act 1877
(1877 c. 2)

In section 5 (charge of Treasury bills on Consolidated Fund) after "payable out of" insert "the National Loans Fund with recourse to".

Revenue, Friendly Societies and National Debt Act 1882
(1882 c. 72)

In section 18 (fractions of a penny on National Debt dividends) for "Exchequer" (before the proviso) read "National Loans Fund".

H*

SCH. 5

National Debt (Conversion of Stock) Act 1884
(1884 c. 23)

In section 1(5) (charge of $2\frac{1}{2}$ per cent. stock on Consolidated Fund) after “charged on” insert “the National Loans Fund with recourse to”.

National Debt (Conversion) Act 1888
(1888 c. 2)

In section 2(5) (charge of dividends on new stock on Consolidated Fund) after “charged on” insert “the National Loans Fund with recourse to”.

War Loan Act 1919
(1919 c. 37)

In section 1(3) (charge of securities under the Act on the Consolidated Fund) after the words “charged on” insert “the National Loans Fund with recourse to”.

In section 3(3) (payments to Commissioners of Inland Revenue in respect of securities accepted in payment of death duties) for “Consolidated Fund” read “National Loans Fund” and for “Exchequer” read “National Loans Fund”.

Government of Ireland Act 1920
(1920 c. 67)

In paragraph 1 of Schedule 6 (liabilities and expenditure to which Government of Northern Ireland is to contribute, including National Debt charges) for the words from the beginning to the end of paragraph (2) read—

“1. National Debt charges, that is to say all charges on the National Loans Fund or the Consolidated Fund of the United Kingdom, being—

- (a) charges for the service of national debt and the repayment of borrowed money, or
- (b) charges to fulfil a guarantee, other than charges in respect of any guaranteed stock raised for the purpose of land purchase in Ireland.”

Finance Act 1921
(1921 c. 32)

In section 45(1) (sinking fund for Conversion Loan payable out of Consolidated Fund) after “issued out of” insert “the National Loans Fund, with recourse to”.

Finance Act 1934
(1934 c. 32)

In section 24 (sinking fund of 3 per cent. Funding Loan 1959–69 payable out of Consolidated Fund) after “issued out of” insert “the National Loans Fund, with recourse to”.

National Loans Act 1939
(1939 c. 117)

In section 3(3) (charge of securities issued under the Act on Consolidated Fund) after “issued out of” insert “the National Loans Fund with recourse to”.

Bank of England Act 1946
(1946 c. 27)

SCH. 5

In paragraph 1 of Schedule 1 (charge of government stock on Consolidated Fund) after "issued out of" insert "the National Loans Fund with recourse to".

Coal Industry Nationalisation Act 1946
(1946 c. 59)

In section 21(1) (charge of Government stock on Consolidated Fund) after "charged on" insert "the National Loans Fund with recourse to".

In section 33(2) (expenses of issue of government stock) for "Consolidated Fund" read "National Loans Fund".

Cable and Wireless Act 1946
(1946 c. 82)

In paragraph 2 of Schedule 2 (charge of government stock on Consolidated Fund) after "issued out of" insert "the National Loans Fund with recourse to".

Miscellaneous Financial Provisions Act 1955
(1955 c. 6—4 & 5 Eliz. 2.)

In section 5(9) (account to meet unclaimed dividends: payment out of Consolidated Fund and application of excess in redemption of debt) for "Consolidated Fund" read "National Loans Fund" and for the words from "applied in such manner" to the end of the subsection read "paid into the National Loans Fund".

National Debt Act 1958
(1958 c. 6—7 & 8 Eliz. 2.)

In sections 7(3), 9(3) and 10(2) (charge on Consolidated Fund of national savings certificates, securities issued in exchange and war savings certificates) after "charged on" insert "the National Loans Fund with recourse to".

In section 12(1)(a) (regulations as to raising of money through Post Office) the reference to the National Loans Act 1939 shall include a 1939 c. 117. reference to this Act.

In section 14(1) (charge on Consolidated Fund of 3½% War Loan stock) after "charged on" insert "the National Loans Fund with recourse to".

Post Office Act 1961
(1961 c. 15)

In section 14(1) (payment of terminable annuities out of Consolidated Fund) after "in whole out of" insert "the National Loans Fund with recourse to".

H* 2

SCH. 5

Finance Act 1961
(1961 c. 36)

In section 35(2) (receipts and outgoings in respect of national savings stamps or national savings gift tokens) for "Exchequer", and for "Consolidated Fund" read "National Loans Fund".

In section 35(5) (unclaimed amounts) for "Consolidated Fund" read "National Loans Fund".

Iron and Steel Act 1967
(1967 c. 17)

In section 10 (government stock issued in compensation) after "charged on" insert "the National Loans Fund with recourse to".

In section 13(5), and in paragraph 5 of Schedule 6 to the 1949 Act as set out in Schedule 4 (stock charged on Consolidated Fund) before "Consolidated Fund" insert "the National Loans Fund with recourse to".

In section 26(4) (expenses in connection with issue or repayment of stock to be charged on and issued out of the Consolidated Fund) for "Consolidated Fund" read "National Loans Fund".

Section 24.

SCHEDULE 6

REPEALS

PART I

GENERAL

| Chapter | Short Title | Extent of Repeal |
|----------------------|--|---|
| 56 Geo. 3. c. 98. | The Consolidated Fund Act 1816. | Section 22. |
| 59 Geo. 3. c. 76. | The Bank of England Act 1819. | The whole Act. |
| 17 & 18 Vict. c. 94. | The Public Revenue and Consolidated Fund Charges Act 1854. | Section 2. |
| 26 & 27 Vict. c. 25. | The Savings Bank Investment Act 1863. | The whole Act. |
| 29 & 30 Vict. c. 39. | The Exchequer and Audit Departments Act 1866. | Section 21. |
| 34 & 35 Vict. c. 36. | The Pensions Commutation Act 1871. | Section 12. |
| 38 & 39 Vict. c. 45. | The Sinking Fund Act 1875. | The whole Act. |
| 40 & 41 Vict. c. 2. | The Treasury Bills Act 1877. | Section 3. In section 5 the words from the beginning to "the Exchequer". Sections 6 and 7. Section 13. |

| Chapter | Short Title | Extent of Repeal |
|---------------------------------|---|--|
| 45 & 46 Vict. c. 72. | The Revenue, Friendly Societies and National Debt Act 1882. | In section 18 the proviso. |
| 47 & 48 Vict. c. 23. | The National Debt (Conversion of Stock) Act 1884. | In section 1(5) the words " and paid out of the permanent annual charge of the National Debt ". In section 9 the definition of the permanent annual charge of the National Debt. Section 13. |
| 47 & 48 Vict. c. 62. | The Revenue Act 1884. | Section 4. |
| 54 & 55 Vict. c. 24. | The Public Accounts and Charges Act 1891. | Section 4. |
| 55 & 56 Vict. c. 48. | The Bank Act 1892. | Sections 1 to 4. In section 5(1) the words " as part of the permanent annual charge of the National Debt ". |
| 57 & 58 Vict. c. 60. | The Merchant Shipping Act 1894. | Section 661. |
| 60 & 61 Vict. c. 27. | The Public Offices (Whitehall) Site Act 1897. | Section 674. |
| 61 & 62 Vict. c. 10. | The Finance Act 1898. | Section 4. |
| 61 & 62 Vict. c. 44. | The Merchant Shipping (Mercantile Marine Fund) Act 1898. | Section 15. |
| 3 Edw. 7. c. 37. | The Irish Land Act 1903. | In section 2(4) the words " six hundred and sixty-one ". |
| 6 Edw. 7. c. 20. | The Revenue Act 1906. | Section 32. |
| 4 & 5 Geo. 5. c. 31. | The Housing Act 1914. | Section 10. |
| 5 & 6 Geo. 5. c. 62. | The Finance Act 1915. | Section 2. |
| 9 & 10 Geo. 5. c. 37. | The War Loan Act 1919. | Section 25. |
| 10 & 11 Geo. 5. c. 67. | The Government of Ireland Act 1920. | Section 1(1)(2)(5)(6). |
| 11 & 12 Geo. 5. c. 32. | The Finance Act 1921. | In section 20(3) the words from " and an officer " to the end of the subsection. |
| 20 & 21 Geo. 5. c. 28. | The Finance Act 1930. | In section 45(2) the words " out of the Consolidated Fund ". Section 48. |
| 21 & 22 Geo. 5. c. 41. | The Agricultural Land (Utilisation) Act 1931. | Section 22. In section 24(a) the words " Except for the purposes of section 22 ". |
| 22 & 23 Geo. 5. c. 25. | The Finance Act 1932. | In section 24, subsections (2), (4), (5) and (6). Section 26. |
| 24 & 25 Geo. 5. c. 10. | The North Atlantic Shipping Act 1934. | The whole Act. |
| 24 & 25 Geo. 5. c. 54. | The Cattle Industry (Emergency Provisions) Act 1934. | The whole Act. |
| 26 Geo. 5 & 1 Edw. 8. c. 26. | The Land Registration Act 1936. | Section 4(1). In section 5(1) the proviso. |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|---------------------------------|--|---|
| 26 Geo. 5 & 1 Edw. 8. c. 43. | The Tithe Act 1936. | Section 24(6). Section 26(2)(4). |
| 26 Geo. 5 & 1 Edw. 8. c. 47. | The Crown Lands Act 1936. | Section 1(6). |
| 1 & 2 Geo. 6. c. 25. | The Eire (Confirmation of Agreements) Act 1938. | In section 2(3) paragraphs (b), (c) and (d). Section 3(2). |
| 1 & 2 Geo. 6. c. 60. | The Anglo-Turkish (Armaments Credit) Agreement Act 1938. | The whole Act. |
| 2 & 3 Geo. 6. c. 7. | The Currency and Bank Notes Act 1939. | The whole Act. |
| 2 & 3 Geo. 6. c. 57. | The War Risks Insurance Act 1939. | In section 16(3) the words from "and the amount" to the end of the subsection. Section 17. |
| 2 & 3 Geo. 6. c. 64. | The Currency (Defence) Act 1939. | The whole Act. |
| 2 & 3 Geo. 6. c. 117. | The National Loans Act 1939. | Sections 1 and 2. In section 3, subsections (2) and (5). Section 4, but not so as to invalidate anything done before the coming into force of this Act. Schedule 1. In Schedule 2, paragraph 3. |
| 3 & 4 Geo. 6. c. 3. | The National Loans Act 1940. | The whole Act. |
| 3 & 4 Geo. 6. c. 23. | The National Loans (No. 2) Act 1940. | Section 1. |
| 4 & 5 Geo. 6. c. 18. | The National Loans Act 1941. | The whole Act. |
| 4 & 5 Geo. 6. c. 30. | The Finance Act 1941. | Section 49. |
| 5 & 6 Geo. 6. c. 14. | The National Loans Act 1942. | The whole Act. |
| 5 & 6 Geo. 6. c. 21. | The Finance Act 1942. | Section 45. |
| 6 & 7 Geo. 6. c. 13. | The National Loans Act 1943. | The whole Act. |
| 6 & 7 Geo. 6. c. 28. | The Finance Act 1943. | Section 29. |
| 7 & 8 Geo. 6. c. 19. | The National Loans Act 1944. | The whole Act. |
| 7 & 8 Geo. 6. c. 23. | The Finance Act 1944. | Section 47. |
| 7 & 8 Geo. 6. c. 36. | The Housing (Temporary Accommodation) Act 1944. | In section 8 subsections (1), (2), (4) and (7). |
| 8 & 9 Geo. 6. c. 23. | The National Loans Act 1945. | The whole Act. |
| 8 & 9 Geo. 6. c. 24. | The Finance Act 1945. | Section 6. |
| 9 & 10 Geo. 6. c. 13. | The Finance (No. 2) Act 1945. | Section 48(2). |

| Chapter | Short Title | Extent of Repeal |
|-------------------------------|---|--|
| 9 & 10 Geo. 6. c. 19. | The Bretton Woods Agreements Act 1945. | Section 1. In section 2, in subsection (1) the words "out of the Consolidated Fund of the United Kingdom" and the words from "and the Treasury" to the end of the subsection, in subsection (2) the words "the Fund or" and subsection (3). |
| 9 & 10 Geo. 6. c. 20. | The Building Materials and Housing Act 1945. | Sections 1 and 4. |
| 9 & 10 Geo. 6. c. 27. | The Bank of England Act 1946. | Section 10(4). In Schedule 1, paragraphs 2 and 12 and in paragraph 13, the words from "and issued out" to the end of the paragraph. |
| 9 & 10 Geo. 6. c. 40. | The Miscellaneous Financial Provisions Act 1946. | In section 1 subsection (1) and in subsection (2)(b) the words from "and then issued" to the end of the subsection. Section 3(2). |
| 9 & 10 Geo. 6. c. 59. | The Coal Industry Nationalisation Act 1946. | Section 4. In section 28(2), the words from "and shall be issued" to the end of the subsection. Section 33(3)(5). Section 34(2). |
| 9 & 10 Geo. 6. c. 64. | The Finance Act 1946. | Section 64. |
| 9 & 10 Geo. 6. c. 68. | The New Towns Act 1946. | Section 12(4)(6). In section 13(4) the words "out of the Consolidated Fund". |
| 9 & 10 Geo. 6. c. 82. | The Cable and Wireless Act 1946. | In section 3(5), the words from "and issued out" to the end of the subsection. In Schedule 2, paragraphs 3 and 8. |
| 10 & 11 Geo. 6. c. 26. | The Cotton (Centralised Buying) Act 1947. | Section 21. |
| 10 & 11 Geo. 6. c. 53. | The Town and Country Planning (Scotland) Act 1947. | Section 64. Section 65(3). |
| 11 & 12 Geo. 6. c. 6. | The Housing (Temporary Accommodation) Act 1947. | The whole Act. |
| 12, 13 & 14 Geo. 6. c. 14. | The Export Guarantees Act 1949. | In section 3, subsection (2), subsection (4)(a) with the word "and", subsection (5)(b) and subsection (6). |
| 12, 13 & 14 Geo. 6. c. 20. | The Cinematograph Film Production (Special Loans) Act 1949. | Section 7. In section 8, in subsection (1), the words from "and shall be issued" to the end of the subsection and subsections (2) and (3). |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|---|--|---|
| 12, 13 & 14 Geo. 6. c. 36. | The War Damage (Public Utility Undertakings) Act 1949. | Section 3(5). |
| 12, 13 & 14 Geo. 6. c. 77. | The Armed Forces (Housing Loans) Act 1949. | Section 1(2)(4). |
| 14 Geo. 6. c. 21. | The Miscellaneous Financial Provisions Act 1950. | Section 2(2)(4). |
| 14 Geo. 6. c. 34. | The Housing (Scotland) Act 1950. | Section 94(3)(5). |
| 14 & 15 Geo. 6. c. 8. | The European Payments Union (Financial Provisions) Act 1950. | The whole Act. |
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 57. | The Marine and Aviation Insurance (War Risks) Act 1952. | In section 5(3) the words from "and the amount" to the end of the subsection. Section 6. |
| 1 & 2 Eliz. 2. c. 15. | The Iron and Steel Act 1953. | Section 22. |
| 2 & 3 Eliz. 2. c. 24. | The Cotton Act 1954. | Section 5(4). |
| 2 & 3 Eliz. 2. c. 44. | The Finance Act 1954. | Section 34(1)(2). In Schedule 5, paragraphs 1, 3 and 4. |
| 2 & 3 Eliz. 2. c. 62. | The Post Office Savings Bank Act 1954. | In section 17(1) the word "or" at the end of paragraph (c), and paragraph (d). |
| 2 & 3 Eliz. 2. c. 63. | The Trustee Savings Banks Act 1954. | In section 32(1) the word "or" at the end of paragraph (c), and paragraph (d). |
| 2 & 3 Eliz. 2. c. 73. | The Town and Country Planning (Scotland) Act 1954. | In section 64, subsections (2)(5) (6)(7), in subsection (3)(c) the words "subject to the next following subsection" and in subsection (4), as respects sums paid after the coming into force of this Act, the words from "and shall be treated" to the end of the subsection. |
| 3 & 4 Eliz. 2. c. 22. | The Pensions (India, Pakistan and Burma) Act 1955. | Section 1(1)(b). |
| 3 & 4 Eliz. 2. c. 24. | The Requisitioned Houses and Housing (Amendment) Act 1955. | Section 15. |
| 4 & 5 Eliz. 2. c. 5. | The International Finance Corporation Act 1955. | In section 2 subsections (1) and (2) and in subsection (3) the words from "and the sums so paid" to the end of the subsection. |
| 4 & 5 Eliz. 2. c. 6. | The Miscellaneous Financial Provisions Act 1955. | Section 2. |
| 4 & 5 Eliz. 2. c. 48. | The Sugar Act 1956. | In section 5, subsection (3), and in subsection (5) the words from "and shall be issued" to the end of the subsection. |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|--------------------------|--|--|
| 4 & 5 Eliz. 2. c. 54. | The Finance Act 1956. | In section 42(6), the words from "and shall be issued" to the end of the subsection. Section 43(1). Section 41. |
| 5 & 6 Eliz. 2. c. 49. | The Finance Act 1957. | |
| 6 & 7 Eliz. 2. c. 42. | The Housing (Financial Provisions) Act 1958. | In section 17, subsections (4) and (6) and in subsection (8), the words from "and issued out of" to the end of the subsection. |
| 7 & 8 Eliz. 2. c. 1. | The Armed Forces (Housing Loans) Act 1958. | In section 2(2), paragraph (a). |
| 7 & 8 Eliz. 2. c. 6. | The National Debt Act 1958. | In section 7, subsections (1), (4) and (5). In section 9, subsections (2) and (4) and, except as respects securities issued under that section before the coming into force of this Act, the remainder of the section. Section 14(2). |
| 7 & 8 Eliz. 2. c. 11. | The European Monetary Agreement Act 1959. | In section 2, subsection (3), and in subsection (4) the words "out of the Consolidated Fund" and the words from "and any sums" to the end of the subsection. |
| 7 & 8 Eliz. 2. c. 17. | The International Bank and Monetary Fund Act 1959. | In section 1, the words "out of the Consolidated Fund of the United Kingdom", paragraph (a) and the words following paragraph (b). |
| 7 & 8 Eliz. 2. c. 23. | The Overseas Resources Development Act 1959. | In section 18, subsections (1) and (3). In section 19, in subsection (1), the words from "and shall be issued" to the end of the subsection and subsections (2) and (3). Section 4(2). |
| 7 & 8 Eliz. 2. c. 28. | The Income Tax (Repayment of Post-war Credits) Act 1959. | |
| 7 & 8 Eliz. 2. c. 33. | The House Purchase and Housing Act 1959. | In section 2, in subsection (5) the words from "and for the purpose" to the end of the subsection and in subsection (6) the words from "and shall be issued" to the end of the subsection. |
| 7 & 8 Eliz. 2. c. 71. | The Colonial Development and Welfare Act 1959. | In section 3 in subsection (1) the words from "and any sums" to the end of the subsection and subsections (2) and (4). |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|----------------------------|---|--|
| 8 & 9 Eliz. 2. c. 26. | The Iron and Steel (Financial Provisions) Act 1960. | The whole Act. |
| 8 & 9 Eliz. 2. c. 35. | The International Development Association Act 1960. | In section 2, subsections (1) and (2) and in subsection (3) the words from "and the sums so paid" to the end of the subsection. |
| 9 & 10 Eliz. 2. c. 8. | The Electricity (Amendment) Act 1961. | Section 1(4). |
| 9 & 10 Eliz. 2. c. 15. | The Post Office Act 1961. | In section 9, subsection (3) and in subsection (4) the words from "and shall be issued" to the end of the subsection. Section 13(4)(5). Section 14(3). Section 19(1). |
| 9 & 10 Eliz. 2. c. 36. | The Finance Act 1961. | Section 35(3)(4)(6)(7). Section 36. |
| 9 & 10 Eliz. 2. c. 49. | The Covent Garden Market Act 1961. | In section 40, subsection (5) and in subsection (6) the words from "and shall be issued" to the end of the subsection. |
| 9 & 10 Eliz. 2. c. 53. | The North Atlantic Shipping Act 1961. | The whole Act. |
| 9 & 10 Eliz. 2. c. 62. | The Trustee Investments Act 1961. | In Schedule 1 in the definition of "Treasury Bills" in paragraph 4 of Part IV the words "Exchequer bills and other". |
| 9 & 10 Eliz. 2. c. 65. | The Housing Act 1961. | In section 7, in subsection (5) the words from "and for the purpose" to the end of the subsection, and in subsection (6) the words from "and shall be issued" to the end of the subsection. |
| 10 & 11 Eliz. 2. c. 28. | The Housing (Scotland) Act 1962. | In section 11, in subsection (5) the words from "and for the purpose", to the end of the subsection and in subsection (6) the words from "and shall be issued" to the end of the subsection. |
| 10 & 11 Eliz. 2. c. 38. | The Town and Country Planning Act 1962. | In section 194, subsections (5), (6) and (7) and in subsection (4), as respects payments made after the coming into force of this Act, the words from "and shall be treated" to the end of the subsection. In Schedule 14 paragraphs 40, 41 and 42. |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|----------------------------|--|--|
| 10 & 11 Eliz. 2. c. 46. | The Transport Act 1962. | In section 20, subsection (4) and in subsection (5) the words from "and shall be issued" to the end of the subsection. In section 29(10) the words from "and so much" to the end of the subsection. Section 36(4). Section 37. In section 39(8) the words from "and shall be issued" to the end of the subsection. |
| 1963 c. 25. 1963 c. 59. | The Finance Act 1963. The Electricity and Gas Act 1963. | Section 72. In section 2 subsection (5) and in subsection (6) the words from "and shall be issued" to the end of the subsection. |
| 1964 c. 7. | The Shipbuilding Credit Act 1964. | In section 2, subsection (2), in subsection (3) the words from "and shall be issued" to the end of the subsection and subsection (6). |
| 1964 c. 13. | The International Development Association Act 1964. | In section 2, in subsection (1) the words "out of the Consolidated Fund of the United Kingdom" and subsection (2). |
| 1964 c. 40. | The Harbours Act 1964. | In section 43, subsection (3) and in subsection (4) the words from "and shall be issued" to the end of the subsection. |
| 1964 c. 49. 1964 c. 56. | The Finance Act 1964. The Housing Act 1964. | Section 25. Section 9(4)(6). In section 10(4) the words "out of the Consolidated Fund". |
| 1965 c. 2. | The Administration of Justice Act 1965. | In section 12(4) the words from "and shall be issued" to the end of the subsection. |
| 1965 c. 9. | The Armed Forces (Housing Loans) Act 1965. | In the Schedule section 1(2)(4) of the Armed Forces (Housing Loans) Act 1949 set out as amended. |
| 1965 c. 16. | The Airports Authority Act 1965. | In section 4(5) the words from "and shall be issued" to the end of the subsection. In section 6, subsection (4) and in subsection (5) the words from "and shall be issued" to the end of the subsection. |
| 1965 c. 36. 1965 c. 59. | The Gas Act 1965. The New Towns Act 1965. | Section 31(1). Section 44(2)(4). In section 45(2) the words from "and section 44(4)" to the end of the subsection. |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|------------------------------|---|---|
| 1965 c. 59.— <i>cont.</i> | The New Towns Act 1965.— <i>cont.</i> | In section 46(5)(a) and (b) the words “out of the Consolidated Fund”, and in section 46(5)(a) the words “and paid into the Exchequer” in the second place where those words occur. |
| 1965 c. 62. | The Redundancy Payments Act 1965. | Section 35(3)(5). |
| 1965 c. 65. | The International Monetary Fund Act 1965. | The whole Act. |
| 1966 c. 15. | The Military Aircraft (Loans) Act 1966. | Section 1(3). Section 2(2). |
| 1966 c. 21. | The Overseas Aid Act 1966. | In section 2 in subsection (1) the words “out of the Consolidated Fund of the United Kingdom” subsection (2) and in subsection (3) the words from “and shall be issued” to the end of the subsection. |
| 1966 c. 28. | The Docks and Harbours Act 1966. | In section 41(9) the words from “and shall be issued” to the end of the subsection. |
| 1966 c. 50. | The Industrial Reorganisation Corporation Act 1966. | In section 4 subsection (4) and in subsection (5) the words from “and shall be issued” to the end of the subsection. |
| 1967 c. 1. | The Land Commission Act 1967. | Section 3(3)(5). |
| 1967 c. 17. | The Iron and Steel Act 1967. | In section 18(3) the words from “and shall be issued” to the end of the subsection. In section 20 subsection (4) and in subsection (5) the words from “and shall be issued” to the end of the subsection. Section 26(5)(6). |
| 1967 c. 33. | The Air Corporations Act 1967. | In section 8 subsection (4) and in subsection (5) the words from “and shall be issued” to the end of the subsection. |
| 1967 c. 40. | The Shipbuilding Industry Act 1967. | In section 10, subsections (3) and (6) and in subsection (7) the words from “and subsection (6)” to the end of the subsection. |
| <i>Local Act</i> | | |
| 1966 c. xxv. | The Tees and Hartlepool Port Authority Act 1966. | In section 32(6) the words from “and shall be issued” to end of the subsection. |

The repeals in this Part of this Schedule shall not affect any money borrowed before the coming into force of this Act, or any requirement as respects any account or statement for the year ending on 31st March 1968 or any earlier year.

PART II
PUBLIC WORKS LOANS

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|-------------------------|--|---|
| 15 & 16 Vict. c. 85. | The Burial Act 1852. | Section 21. |
| 24 & 25 Vict. c. 47. | The Harbours and Passing Tolls, &c., Act 1861. | Section 3(2). |
| 25 & 26 Vict. c. 69. | The Harbours Transfer Act 1862. | Section 20. |
| 29 & 30 Vict. c. 30. | The Harbour Loans Act 1866. | The whole Act. |
| 35 & 36 Vict. c. 23. | The Isle of Man Harbours Act 1872. | In section 20 the words from "The Public Works Loan Commissioners" to the end of the section. |
| 38 & 39 Vict. c. 55. | The Public Health Act 1875. | Sections 242 and 243. In section 301 the words from "whenever" to the end of the section. |
| 38 & 39 Vict. c. 58. | The Public Works Loans (Money) Act 1875. | The whole Act. |
| 38 & 39 Vict. c. 83. | The Local Loans Act 1875. | Section 28. |
| 38 & 39 Vict. c. 89. | The Public Works Loans Act 1875. | Section 3. In section 5(3) the words from "within three months" to "made", the word "forthwith" and the words from "if Parliament" to the end of paragraph (3). In section 9 the words from the beginning to "such purpose". Section 40. In section 41 the words "and the National Debt Commissioners". In section 43 the words from "Such accounts as the Treasury" to the end of the section. Section 49. Section 56. Schedule 1. Section 6. |
| 39 & 40 Vict. c. 31. | The Public Works Loans (Money) Act 1876. | Section 6. |
| 41 & 42 Vict. c. 18. | The Public Works Loans Act 1878. | The whole Act. |
| 44 & 45 Vict. c. 38. | The Public Works Loans Act 1881. | Section 7. |
| 50 & 51 Vict. c. 16. | The National Debt and Local Loans Act 1887. | The whole Act. |
| 55 & 56 Vict. c. 43. | The Military Lands Act 1892. | Section 7. |
| 57 & 58 Vict. c. 11. | The Public Works Loans Act 1894. | The whole Act. |
| 59 & 60 Vict. c. 42. | The Public Works Loans Act 1896. | The whole Act. |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|---------------------------|---|--|
| 60 & 61 Vict. c. 6. | The Military Lands Act 1897. | In section 1 the words " and of the Public Works Loan Commissioners to lend " and the words " and lending ". |
| 60 & 61 Vict. c. 51. | The Public Works Loans Act 1897. | The whole Act. |
| 62 & 63 Vict. c. 31. | The Public Works Loans Act 1899. | The whole Act. |
| 62 & 63 Vict. c. 36. | The Colonial Loans Act 1899. | The whole Act. |
| 62 & 63 Vict. c. 44. | The Small Dwellings Acquisition Act 1899. | Section 9(7). |
| 63 & 64 Vict. c. 56. | The Military Lands Act 1900. | In section 1(2) the words " and of the Public Works Loan Commissioners to lend " and the words " and lending ". |
| 3 Edw. 7. c. 46. | The Revenue Act 1903. | In section 16(1) the words " or of an advance from the Local Loans Fund ". |
| 7 Edw. 7. c. 36. | The Public Works Loans Act 1907. | The whole Act. |
| 7 Edw. 7. c. 43. | The Education (Administrative Provisions) Act 1907. | Section 8. |
| 8 Edw. 7. c. 23. | The Public Works Loans Act 1908. | The whole Act. |
| 8 Edw. 7. c. 36. | The Small Holdings and Allotments Act 1908. | Section 52(2). Section 53(5). |
| 9 & 10 Geo. 5. c. 59. | The Land Settlement (Facilities) Act 1919. | Section 14. |
| 10 & 11 Geo. 5. c. 67. | The Government of Ireland Act 1920. | In section 21(2) the words from " and money for loans " to the end of the subsection. |
| 12 & 13 Geo. 5. c. 51. | The Allotments Act 1922. | Section 18(1). |
| 13 & 14 Geo. 5. c. 24. | The Housing, &c., Act 1923. | In section 6(1) the words from " or the terms and " to the end of the subsection. |
| 13 & 14 Geo. 5. c. 34. | The Agricultural Credits Act 1923. | Section 1. |
| 15 & 16 Geo. 5. c. 61. | The Allotments Act 1925. | Section 2. |
| 16 & 17 Geo. 5. c. 56. | The Housing (Rural Workers) Act 1926. | In section 2(5)(a) the words " under section one of the Public Works Loans Act 1897 " and the words " out of the Local Loans Fund ". In section 5(4) the words from " and the raising " to the end of the subsection. |
| 18 & 19 Geo. 5. c. 43. | The Agricultural Credits Act 1928. | Section 1(3). |
| 19 & 20 Geo. 5. c. 13. | The Agricultural Credits (Scotland) Act 1929. | Section 1(3). |
| 20 & 21 Geo. 5. c. 44. | The Land Drainage Act 1930. | Section 46(5). |

| Chapter | Short Title | Extent of Repeal |
|---------------------------------|--|--|
| 25 & 26 Geo. 5. c. 24. | The Finance Act 1935. | Sections 28 to 31. |
| 25 & 26 Geo. 5. c. 40. | The Housing Act 1935. | In section 37(3) the words "under section 1 of the Public Works Loans Act 1897" and the words "out of the Local Loans Fund". In section 92(2) the words "under section one of the Public Works Loans Act 1897" and the words "out of the Local Loans Fund". |
| 25 & 26 Geo. 5. c. 41. | The Housing (Scotland) Act 1935. | In section 34(3) the words "under section 1 of the Public Works Loans Act 1897" and the words "out of the Local Loans Fund". In section 83(2) the words "under section one of the Public Works Loans Act 1897" and the words "out of the Local Loans Fund". |
| 26 Geo. 5 & 1 Edw. 8. c. 5. | The Public Works Loans Act 1935. | The whole Act. |
| 26 Geo. 5 & 1 Edw. 8. c. 49. | The Public Health Act 1936. | Section 311. |
| 1 & 2 Geo. 6. c. 7. | The Public Works Loans (No. 2) Act 1937. | The whole Act. |
| 2 & 3 Geo. 6. c. 31. | The Civil Defence Act 1939. | Section 29(4). |
| 4 & 5 Geo. 6. c. 14. | The Public Works Loans Act 1941. | The whole Act. |
| 5 & 6 Geo. 6. c. 21. | The Finance Act 1942. | In Part I of Schedule 11 the words "Local Loans three per cent. Stock", and the last entry (stock and bonds under ss. 28 and 29 of the Finance Act 1935). In Part II of Schedule 11 the entry relating to the National Debt and Local Loans Act 1887. |
| 8 & 9 Geo. 6. c. 18. | The Local Authorities Loans Act 1945. | In section 2 subsection (1) and in subsection (2) the word "such". Sections 3 and 5. Section 46. |
| 8 & 9 Geo. 6. c. 33. | The Town and Country Planning (Scotland) Act 1945. | Section 46. |
| 9 & 10 Geo. 6. c. 75. | The Public Works Loans (No. 2) Act 1946. | The whole Act. |
| 10 & 11 Geo. 6. c. 43. | The Local Government (Scotland) Act 1947. | Section 276(1). |
| 14 Geo. 6. c. 34. | The Housing (Scotland) Act 1950. | In paragraph 5(1) proviso of Schedule 7 the words "under section one of the Public Works Loans Act 1897" and the words "out of the Local Loans Fund". |

SCH. 6

| Chapter | Short Title | Extent of Repeal |
|--------------------------------------|---|--|
| 15 & 16 Geo. 6 and 1 Eliz. 2. c. 52. | The Prison Act 1952. | Section 38(3). |
| 1 & 2 Eliz. 2. c. 3. | The Public Works Loans Act 1952. | In section 6 subsections (1) and (2). |
| 3 & 4 Eliz. 2. c. 13. | The Rural Water Supplies and Sewerage Act 1955. | In section 1(3)(b) the words "from the Local Loans Fund". |
| 4 & 5 Eliz. 2. c. 16. | The Food and Drugs Act 1955. | In section 88(3) the words from "and for the purposes" to the end of the subsection. In Schedule 9 the entry relating to section 311 of the Public Health Act 1936. |
| 6 & 7 Eliz. 2. c. 42. | The Housing (Financial Provisions) Act 1958. | In the proviso to paragraph 7(1) of Schedule 3 the words "under section one of the Public Works Loans Act 1897" and the words "out of the Local Loans Fund". |
| 7 & 8 Eliz. 2. c. 25. | The Highways Act 1959. | In section 198(2) the words "under section one of the Public Works Loans Act 1897". |
| 9 & 10 Eliz. 2. c. 65. | The Housing Act 1961. | In section 7(2)(a) the words "under section one of the Public Works Loans Act 1897". |
| 10 & 11 Eliz. 2. c. 28. | The Housing (Scotland) Act 1962. | In section 11(2)(a) the words "under section one of the Public Works Loans Act 1897". |
| 10 & 11 Eliz. 2. c. 38. | The Town and Country Planning Act 1962. | Section 187. |
| 1963 c. 29. | The Local Authorities (Land) Act 1963. | In section 3(4), the words "under section 1 of the Public Works Loans Act 1897". |
| 1964 c. 9. | The Public Works Loans Act 1964. | Sections 1 to 5. In section 9 subsection (2) and in subsection (3) paragraphs (a) and (c). All the Schedules. |
| 1964 c. 40. | The Harbours Act 1964. | In section 13(2), in paragraph (a) the words "or section 9 of the Public Works Loans Act 1875" and paragraph (b). |
| 1964 c. 67. | The Local Government (Development and Finance) (Scotland) Act 1964. | In section 7(4) the word "lower" and the words "under section 2 of the Public Works Loans Act 1964". |
| 1965 c. 63. | The Public Works Loans Act 1965. | Section 1. |
| 1966 c. 16. | The Public Works Loans Act 1966. | The whole Act. |
| 1967 c. 61. | The Public Works Loans Act 1967. | Section 1. |

The repeals in this Part of this Schedule shall not have effect in relation to any loans made before the coming into force of this Act.



Public Expenditure and Receipts Act 1968

1968 CHAPTER 14

An Act to increase contributions payable under the National Insurance Act 1965 and the National Health Service Contributions Act 1965, and to strengthen the provisions of the former Act as to enforcement; to restrict the enactments providing for the supply of milk to school children; to provide compensation for civil defence employees in connection with the reduction of activities under section 2 of the Civil Defence Act 1948; to provide for increasing, or for abolishing in the interests of economy, certain fees and other payments; and to amend section 3 of the Local Employment Act 1960 as regards consultation with the advisory committee; and for purposes connected therewith.

[20th March 1968]

BE IT ENACTED by the Queen'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) In the National Insurance Act 1965 for the provisions set out in Schedule 1 there shall be substituted the provisions set out in Schedule 1 to this Act (in place of the provisions previously substituted by the National Insurance Act 1967); and there shall be paid out of moneys provided by Parliament any resulting increase in the sums so payable by way of Exchequer supplement under section 7 of the National Insurance Act 1965.

Contributions under National Insurance Act 1965.
1965 c. 51.
1967 c. 73.

(2) The places liable to inspection under section 90 of the National Insurance Act 1965 for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid, by or in respect of any person shall include any premises or place where an inspector appointed under the Act has reasonable ground for supposing that there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or perform services; and the persons subject to the obligations imposed by section 90(3) for that purpose shall include (in addition to the occupier of any such premises or place and the other persons specified in section 90(3)) any person who is or has been carrying on any such business.

1965 c. 51. (3) Where a person is convicted of an offence under section 90(4)(b) of the National Insurance Act 1965 (refusal or neglect to answer questions, furnish information etc. when required under that section) and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding ten pounds for each day on which it is so continued.

Section 93(3) (liability of directors and others for offences of body corporate) and section 94 (general provisions as to prosecutions) of the National Insurance Act 1965 shall apply in relation to offences under this section as they apply in relation to offences under that Act.

(4) Sections 107(1) and 108 of the National Insurance Act 1965 (which require a draft of certain regulations under the Act to be approved by Parliament, and a preliminary draft of any regulations to be submitted to the National Insurance Advisory Committee) shall not apply to any regulations if they are contained in a statutory instrument made within the six months beginning with the date of the passing of this Act and the instrument states that it is made in consequence of the passing of subsection (1) above; but that subsection shall not come into force until such date as the Minister of Social Security may appoint by order made by statutory instrument, which shall be laid before Parliament after being made.

1967 c. 73. (5) As from the coming into force of subsection (1) above there are hereby repealed section 1(1)(a) of the National Insurance Act 1967 and Schedule 1 to that Act.

National
Health Service
contributions.
1965 c. 54.

2. In the National Health Service Contributions Act 1965 for the provisions set out in the Schedule there shall, as from the coming into force of section 1(1) of this Act, be substituted the provisions set out in Schedule 2 to this Act.

3.—(1) Regulations made under section 49 of the Education School milk. Act 1944 as to the provision of milk for pupils shall not impose 1944 c. 31. on local education authorities the duty of providing milk for pupils other than pupils in attendance at primary schools or special schools nor for senior pupils in attendance at schools which are primary schools only by virtue of section 114(3) of that Act; and the power under section 78(2)(a) of that Act to make arrangements as to the provision of milk for pupils in attendance at schools not maintained by the local education authority shall apply only to primary schools and special schools and to junior pupils in other schools.

(2) Section 53 of the Education (Scotland) Act 1962 (which, 1962 c. 47. amongst other things, imposes a duty or, in certain circumstances, confers a power, on education authorities to provide, or to make arrangements for the provision of, milk for pupils and others) shall, so far as it relates to pupils in attendance at public schools, junior colleges or other educational establishments, be construed as imposing such a duty, or, as the case may be, conferring such a power, only in relation to pupils receiving primary education or special educational treatment; and the power under section 55 of that Act to make arrangements as to the provision of milk for pupils in attendance at schools other than public schools shall have effect only in relation to pupils receiving primary education or special educational treatment.

(3) Any regulations or arrangements made before the coming into force of this section shall cease to have effect in so far as they make provision to the contrary of subsection (1) or (2) above.

(4) Expressions used in this section and in the Education Acts 1944 to 1967 or, as regards Scotland, the Education (Scotland) Acts 1939 to 1967 shall be construed in like manner in this section as in those Acts.

(5) This section shall not have effect, as regards England and Wales, until the term following the summer term 1968 (and for this purpose "summer term" means the term ending last before the month of September) or, as regards Scotland, until the 1st August 1968.

4.—(1) The Secretary of State shall make regulations for the payment by such local authority or police authority as may be prescribed by or determined under the regulations, but subject to such exceptions or conditions as may be so prescribed, of compensation to or in respect of persons who are the holders of any such place, situation or employment as may be so prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to the revocation or amendment of any regulations made under section 2 of the Civil Defence Act 1948. Compensation to civil defence employees for loss of employment etc. 1948 c. 5 (12, 13 & 14 Geo. 6.).

(2) The compensation payable by any authority shall be payable out of the same fund as expenditure of that authority under section 2 of the Civil Defence Act 1948, and section 3 of that Act (grants towards expenses of local and police authorities) shall apply in relation to expenses incurred in paying the compensation as if they were expenses incurred by virtue of section 2.

(3) Different regulations may be made under this section in relation to different classes of persons, and regulations so made 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.

(4) Regulations under this section shall not be made with reference to the revocation or amendment after the 31st March 1969 of regulations under section 2 of the Civil Defence Act 1948, but may be made with reference to the revocation or amendment of any such regulations and matters arising thereout before the making of the regulations under this section or the passing of this Act ; but in so far as any regulations under this section are framed so as to operate with reference to a date earlier than the making thereof, the regulations shall not place any person other than the authority required by the regulations to pay compensation in a worse position than he would have been in if the regulations had not been so framed.

(5) Regulations made under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section "local authority" has the same meaning as in section 2 of the Civil Defence Act 1948.

5.—(1) With a view to securing from the fees, charges or other payments required or regulated by the enactments mentioned in column 1 of Schedule 3 to this Act a net return corresponding more nearly with the cost of the matters for which they are payable, or to dispensing with payments from which a net return cannot reasonably be expected, those enactments may be amended by an order made by the Minister specified in relation to the enactment in question in column 2 of the Schedule, so as to vary any sum specified by the enactment as the amount or maximum amount of any payment, or so as to provide that any sum payable under the enactment shall cease to be payable.

(2) The powers conferred by subsection (1) above in relation to any enactment shall be exercisable in relation to that enactment as applied by any other enactment, and shall include power—

(a) to make different provision for different cases, or provision limited to specified cases ; and

1948 c. 5
(12, 13 & 14
Geo. 6.).

Increase of
fees etc.

(b) to repeal any enactment superseded by the exercise of the powers (including any enactment amending an enactment mentioned in Schedule 3 to this Act); and

(c) to vary or revoke any previous order under subsection (1) above.

(3) The power to make orders under subsection (1) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) There shall be paid into the Exchequer any addition resulting from this section to the sums so payable by virtue of any other enactment.

(5) This section shall extend to Northern Ireland in so far as it affects—

(a) section 9 of the Fees (Increase) Act 1923 in its operation 1923 c. 4. on any enactment relating to matters in respect of which the Parliament of Northern Ireland has no power to make laws; or

(b) section 90(2) of the Transport Act 1962. 1962 c. 46.

6. In section 3(1) of the Local Employment Act 1960 (which provides for the making of building grants to enterprises in development areas, but requires the Board of Trade to consult the advisory committee) for the words "after consultation with an advisory committee appointed by the Board (hereinafter referred to as 'the advisory committee')" there shall be substituted the words "after consultation, if the Board see fit, with the advisory committee (that is to say, an advisory committee appointed for the purposes of this Act by the Board)". Procedure for building grants in development areas. 1960 c. 18.

7.—(1) This Act may be cited as the Public Expenditure and Receipts Act 1968. Short title and extent.

(2) Subject to section 5(5) above, this Act shall not extend to Northern Ireland, except in so far as section 1 or 2 affects the operation of any enactment which does so extend in the National Insurance Acts 1965 to 1967 or in the National Health Service Contributions Act 1965. 1965 c. 54.

SCHEDULES

Section 1.

SCHEDULE 1

1965 c. 51.

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 1
TO NATIONAL INSURANCE ACT 1965

RATES OF FLAT-RATE CONTRIBUTIONS

PART I

Employed persons

| Description of employed person 1 | Weekly Rate of Contribution | |
|---|---|---|
| | Unless by virtue of a non-participating employment 2 | If by virtue of a non-participating employment 3 |
| | s. d. | s. d. |
| Men between the ages of 18 and 70 (other than men over the age of 65 who have retired from regular employment)— | | |
| Earning remuneration at a weekly rate exceeding £6 | 12 8 | 15 1 |
| Earning remuneration at a weekly rate of £6 or less | 7 5 | 8 8 |
| Women between the ages of 18 and 65 (other than women over the age of 60 who have retired from regular employment)— | | |
| Earning remuneration at a weekly rate exceeding £6 | 11 0 | 12 6 |
| Earning remuneration at a weekly rate of £6 or less | 6 4 | 7 1 |
| Boys under the age of 18 | 8 8 | — |
| Girls under the age of 18 | 7 1 | — |

For the purposes of this Part and Part II of this Schedule a person shall be deemed to be earning remuneration at a weekly rate of £6 or less if, but only if, his remuneration does not include the provision of board and lodging by the employer and the rate of the remuneration neither exceeds, nor is deemed in accordance with regulations made under section 114(5) of this Act to exceed, £6 a week, and to be earning remuneration at a weekly rate exceeding £6 in any other case.

PART II
Employers

| Description of employed person 1 | Weekly Rate of Contribution | |
|--|---|---|
| | Unless by virtue of a non-participating employment 2 | If by virtue of a non-participating employment 3 |
| | s. d. | £ s. d. |
| Men over the age of 18— | | |
| Earning remuneration at a weekly rate exceeding £6 or not being liable to pay a contribution as an employed person ... | 14 1 | 16 6 |
| Earning remuneration at a weekly rate of £6 or less and being liable to pay a contribution as an employed person ... | 19 4 | 1 2 11 |
| Women over the age of 18— | | |
| Earning remuneration at a weekly rate exceeding £6 or not being liable to pay a contribution as an employed person | 12 3 | 13 9 |
| Earning remuneration at a weekly rate of £6 or less and being liable to pay a contribution as an employed person ... | 16 11 | 19 2 |
| Boys under the age of 18 | 9 6 | — |
| Girls under the age of 18 | 7 10 | — |

For the purposes of this Part of this Schedule a person over pensionable age, not being an insured person, shall be treated as an employed person if he would be an insured person were he under pensionable age and would be an employed person were he an insured person.

PART III
Self-Employed Persons

| Description of self-employed person 1 | Weekly Rate of Contribution 2 |
|--|----------------------------------|
| | s. d. |
| Men between the ages of 18 and 70 (other than men over the age of 65 who have retired from regular employment) | 18 0 |
| Women between the ages of 18 and 65 (other than women over the age of 60 who have retired from regular employment) | 15 8 |
| Boys under the age of 18 | 10 9 |
| Girls under the age of 18 | 8 11 |

PART IV

Non-Employed Persons

| Description of non-employed person 1 | Weekly Rate of Contribution 2 |
|--|--|
| | s. d. |
| Men between the ages of 18 and 65 | 14 3 |
| Women between the ages of 18 and 60 | 11 2 |
| Boys under the age of 18 | 8 2 |
| Girls under the age of 18 | 6 4 |

Section 2.

SCHEDULE 2

1965 c. 54.

PROVISIONS TO BE SUBSTITUTED IN THE SCHEDULE TO NATIONAL
HEALTH SERVICE CONTRIBUTIONS ACT 1965

RATES OF NATIONAL HEALTH SERVICE CONTRIBUTIONS

| Description of persons | Weekly Rate of Contribution |
|---|-----------------------------------|
| | s. d. |
| 1. Employed men between the ages of 18 and 70, other than men over the age of 65 who have retired from regular employment | 3 2 |
| 2. Employed women between the ages of 18 and 65, other than women over the age of 60 who have retired from regular employment | 2 6 |
| 3. Employed boys and girls under the age of 18 | 1 7 |
| 4. Employers | 8 |
| 5. Self-employed men between the ages of 18 and 70, other than men over the age of 65 who have retired from regular employment | 3 4 |
| 6. Self-employed women between the ages of 18 and 65, other than women over the age of 60 who have retired from regular employment | 2 8 |
| 7. Self-employed boys and girls under the age of 18 | 1 9 |
| 8. Non-employed men between the ages of 18 and 65 | 3 4 |
| 9. Non-employed women between the ages of 18 and 60 | 2 8 |
| 10. Non-employed boys and girls under the age of 18 | 1 9 |

SCHEDULE 3

Section 5.

VARIATION OF FEES ETC.

| Enactments requiring or regulating payment | Relevant Minister |
|--|---|
| <p>1. (a) The Births and Deaths Registration Act 1836 (c. 86) section 35. The Births and Deaths Registration Act 1874 (c. 88) section 28. The Education Act 1944 (c. 31) section 94. The Marriage Act 1949 (c. 76). The Births and Deaths Registration Act 1953 (c. 20). The Registration Service Act 1953 (c. 37) section 18(3) and (4).</p> <p>(b) The Savings Banks Act 1887 (c. 40) section 10. The Friendly Societies Act 1896 (c. 25) section 97. The Young Persons (Employment) Act 1938 (c. 69) section 5. The Industrial Assurance and Friendly Societies Act 1948 (c. 39) Schedule 1, paragraph 7. The Shops Act 1950 (c. 28) section 35. The Factories Act 1961 (c. 34) section 178(1). The Education (Scotland) Act 1962 (c. 47) section 99(1). The National Insurance Act 1965 (c. 51) section 91(2).</p> | <p>The Minister of Health.</p> <p>The Minister of Health or, as regards Scotland, the Secretary of State.</p> |
| <p>2. The Places of Worship Registration Act 1855 (c. 81). The Marriage and Registration Act 1856 (c. 119) section 24.</p> | <p>The Minister of Health.</p> |
| <p>3. The Lyon King of Arms Act 1867 (c. 17) Schedule B.</p> | <p>The Secretary of State.</p> |
| <p>4. The Explosives Act 1875 (c. 17) section 49, and Schedule 3.</p> | <p>The Secretary of State.</p> |
| <p>5. The Fees (Increase) Act 1923 (c. 4) section 7.</p> | <p>The Secretary of State.</p> |

| Enactments requiring or regulating payment | Relevant Minister |
|--|---|
| 6. The Fees (Increase) Act 1923 (c. 4) section 9. The Local Government Act 1933 (c. 51) section 290(4). The Road and Rail Traffic Act 1933 (c. 53) section 47(2). The Local Government (Scotland) Act 1947 (c. 43) section 355(8). The Road Traffic Act 1960 (c. 16) section 249(1)(d). The Transport Act 1962 (c. 46) section 90(2). | } The Treasury. |
| 7. (a) The Town and Country Planning (Scotland) Act 1954 (c. 73) section 50(8). | The Secretary of State. |
| (b) The Town and Country Planning Act 1962 (c. 38) section 99(9). | The Minister of Housing and Local Government. |
| 8. The Road Traffic Act 1960 (c. 16) sections 212 and 213. | The Minister of Health or, as regards Scotland, the Secretary of State. |
| 9. The Sea Fisheries Regulation Act 1966 (c. 38) section 9. | The Minister of Agriculture, Fisheries and Food. |



Consolidated Fund (No. 2) Act 1968

1968 CHAPTER 15

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on 31st March 1967, 1968 and 1969. [28th March 1968]

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 Queen'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 Her Majesty for the service of the years ending on 31st March 1967 and 1968, the sum of £104,462,539 10s. 4d. Issue out of the Consolidated Fund for the years ending 31st March 1967 and 1968.
2. The Treasury may issue out of the Consolidated Fund of the United Kingdom and apply towards making good the supply granted to Her Majesty for the service of the year ending on 31st March 1969, the sum of £3,989,612,400. Issue out of the Consolidated Fund for the year ending 31st March 1969.
3. This Act may be cited as the Consolidated Fund (No. 2) Short title. Act 1968.



New Towns (Scotland) Act 1968

1968 CHAPTER 16

An Act to consolidate certain enactments relating to new towns and to matters connected therewith, being those enactments in their application to Scotland; with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949.

[28th March 1968]

BE IT ENACTED by the Queen'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:—

New towns and their development corporations

1.—(1) If the Secretary of State is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is expedient in the national interest that any area of land should be developed as a new town by a corporation established under this Act, he may make an order designating that area as the site of the proposed new town.

Designation
of site of
new town.

(2) An order under this section may include in the area designated as the site of the proposed new town any existing town or other centre of population; and references in this Act to a new town or proposed new town shall be construed accordingly.

(3) The provisions of Schedule 1 to this Act shall have effect with respect to the procedure to be followed in connection with the making of orders under this section and with respect to the validity and date of operation of such orders.

(4) As soon as may be after an order under this section becomes operative, the Secretary of State shall record it in the Register of Sasines.

(5) Section 10(4) of this Act applies where it is proposed to make an order under this section.

(6) Section 46(5) of this Act applies to any order under this section which designates an area as the site of a proposed new town, and to certain orders for extending the area of a new town.

Establishment
of development
corporation
for new
town.

2.—(1) For the purposes of the development of each new town the site of which is designated under section 1 of this Act, the Secretary of State shall by order establish a corporation (in this Act called a development corporation) consisting of a chairman, a deputy chairman and such number of other members, not exceeding seven, as may be prescribed by the order; and every such corporation shall be a body corporate by such name as may be prescribed by the order, with perpetual succession and a common seal.

(2) The provisions of Schedule 2 to this Act shall have effect with respect to the constitution and proceedings of any development corporation established under this Act.

(3) Nothing in this Act shall be construed as exempting a development corporation from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local.

Objects and
general powers
of development
corporation.

3.—(1) The objects of a development corporation established for the purposes of a new town shall be to secure the laying out and development of the new town in accordance with proposals approved in that behalf under the following provisions of this Act.

(2) Subject to section 4 of this Act, every such corporation shall, for the purpose of securing the laying out and development of the new town as aforesaid, have power—

- (a) to acquire, hold, manage and dispose of land and other property;
- (b) to carry out building and other operations;
- (c) to provide water, electricity, gas, sewerage and other services;
- (d) to carry on any business or undertaking in or for the purposes of the new town,

and generally to do anything necessary or expedient for the purposes of the new town or for purposes incidental thereto.

(3) Without prejudice to the generality of the powers conferred on development corporations by this Act, a development corporation—

- (a) may, with the consent of the Secretary of State, contribute such sums as the Secretary of State, with the

concurrence of the Treasury, may determine towards expenditure incurred or to be incurred by any local authority or statutory undertakers in the performance, in relation to the new town, of any of their statutory functions, including expenditure so incurred in the acquisition of land ; and

(b) may, with the like consent, contribute such sums as the Secretary of State, with the like concurrence, may determine by way of assistance towards the provision of amenities for the new town.

(4) For the avoidance of doubt it is hereby declared that subsection (2) above relates only to the capacity of a development corporation as a statutory corporation ; and nothing in this section shall be construed as authorising the disregard by a development corporation of any enactment or rule of law.

(5) For the avoidance of doubt it is hereby also declared—

(a) that the power of acquiring land conferred by subsection (2) above on a development corporation established for the purposes of a new town includes power to acquire any land within the area of the new town, whether or not it is proposed to develop that particular land ; and

(b) that the power of disposing of land conferred by that subsection on such a development corporation includes, in relation to any land within the area of the new town, power to dispose of that land whether or not the development of that particular land has been proposed or approved under section 6(1) of this Act.

4.—(1) A development corporation shall not have power to borrow money except by way of advance from the Secretary of State under this Act. Restrictions on powers of development corporation.

(2) Without prejudice to any provision of this Act requiring the consent of the Secretary of State to be obtained for anything to be done by a development corporation, the Secretary of State may give directions to any such corporation for restricting the exercise by them of any of their powers under this Act or for requiring them to exercise those powers in any manner specified in the directions.

(3) Before giving any directions to a development corporation under subsection (2) above the Secretary of State shall consult with the chairman of the corporation, or, if the chairman is not available, with the deputy chairman, unless he is satisfied that, on account of urgency, such consultation is impracticable.

(4) A transaction between a person and a development corporation acting in purported exercise of their powers under this Act shall not be void by reason only that it was carried out in contravention of a direction given by the Secretary of State under subsection (2) above unless that person had actual notice of that direction.

(5) Without prejudice to section 3(4) of this Act, nothing in this Act shall be construed as authorising a development corporation to carry on any undertaking for the supply of water, electricity or gas, or any railway, light railway, tramway or trolley vehicle undertaking except under the authority of an enactment not contained in this Act specifically authorising them to do so or, in the case of a trolley vehicle undertaking, under the authority of such an enactment or of an order under section 32 of this Act.

Allocation or transfer of new town functions to existing or new development corporation.

5.—(1) If it appears to the Secretary of State, in the case of the area of any new town, that there are exceptional circumstances which render it expedient that the functions of a development corporation under this Act should be performed by the development corporation established for the purposes of any other new town instead of by a separate corporation established for the purpose, he may, instead of establishing such a separate corporation, by order direct that the said functions shall be performed by the development corporation established for the said other new town.

(2) If it appears to the Secretary of State that there are exceptional circumstances which render it expedient that the functions of a development corporation established for the purposes of a new town should be transferred to the development corporation established for the purposes of any other new town, or to a new development corporation to be established for the purposes of the first-mentioned new town, he may by order provide for the dissolution of the first-mentioned corporation and for the transfer of its functions, property, rights and liabilities to the development corporation established for the purposes of the said other new town, or, as the case may be, to a new corporation established for the purposes of the first-mentioned new town by the order.

(3) Without prejudice to the provisions of this Act with respect to the variation of orders made thereunder, an order under this section providing for the exercise of functions in relation to a new town by the development corporation established for the purposes of another new town, or for the transfer of such functions to such a corporation, may modify the name and constitution of that corporation in such manner as appears to the Secretary of State to be expedient, and for the purposes of this

Act that corporation shall be treated as having been established for the purposes of each of those new towns.

(4) Before making an order under this section providing for the transfer of functions from or to a development corporation or for the exercise of any functions by such a corporation, the Secretary of State shall consult with that corporation.

Planning control in new towns

6.—(1) The development corporation established for the purposes of a new town shall from time to time submit to the Secretary of State, in accordance with any directions given by him in that behalf, their proposals for the development of land within the area of the new town, and the Secretary of State, after consultation with the local planning authority within whose district the land is situated, and with any other local authority who appear to him to be concerned, may approve any such proposals either with or without modification.

Planning control in new town.

(2) Without prejudice to the generality of the powers conferred by section 11 of the Town and Country Planning (Scotland) Act 1947, a special development order made by the Secretary of State under that section with respect to the area of a new town may grant permission for any development of land in accordance with proposals approved under subsection (1) above, subject to such conditions, if any (including conditions requiring details of any proposed development to be submitted to the local planning authority), as may be specified in the order.

1947 c. 53.

(3) It shall be the duty of the Secretary of State to give to a development corporation established under this Act such directions with respect to the disposal of land acquired by them thereunder and with respect to the development by them of such land, as appear to him to be necessary or expedient for securing, so far as practicable, the preservation of any features of special architectural or historic interest, and in particular of buildings included in any list compiled or approved under section 28 of the Town and Country Planning (Scotland) Act 1947 (which relates to the compilation or approval by the Secretary of State of lists of buildings of special architectural or historic interest).

(4) In the case of land which forms a frontage to a road, or abuts on or is adjacent to a road, a local highway authority or the Secretary of State may enter into an agreement with any owner of the land imposing on the land, so far as that owner's interest in the land enables him to bind it, restrictions for controlling the development of the land.

(5) Any agreement under subsection (4) above may, within three months after the date on which it was entered into, be recorded in the Register of Sasines, and on being so recorded shall be enforceable by the local highway authority or the Secretary of State, as the case may be, against the said owner and against any person deriving title from him.

1966 c. 49.

(6) The provisions of section 174(1) of the Housing (Scotland) Act 1966 shall apply in relation to any such development as aforesaid, being development carried out by the corporation in accordance with proposals approved by the Secretary of State under subsection (1) of this section, as they apply in relation to things done in pursuance of housing operations to which the said section 174 applies.

Acquisition of land by development corporations and highway authorities

Acquisition of land by development corporation.

7.—(1) The development corporation established for the purposes of a new town may, with the consent of the Secretary of State, acquire by agreement, or may, by means of an order made by the corporation and submitted to and confirmed by the Secretary of State in accordance with the provisions of Part I of Schedule 3 to this Act, be authorised to acquire compulsorily—

- (a) any land within the area of the new town, whether or not it is proposed to develop that particular land ;
- (b) any land adjacent to that area which they require for purposes connected with the development of the new town ;
- (c) any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town.

(2) A compulsory purchase order under this section shall, in so far as it relates to land—

- (a) which is the property of a local authority, or which is held inalienably by the National Trust, or
- (b) which forms part of a common or open space,

be subject to the special provisions of Part IV of the said Schedule 3.

(3) Where a development corporation have been authorised under subsection (1) above to acquire compulsorily land forming part of a common or open space, they may be authorised under that subsection to acquire compulsorily, or may, with the consent of the Secretary of State, acquire by agreement, land for giving in exchange for the land acquired.

(4) The provisions of Part V of the said Schedule 3 shall have effect with respect to the validity and date of operation of compulsory purchase orders under this section.

(5) In relation to operational land of statutory undertakers the foregoing provisions of this section shall have effect subject to section 10 of this Act.

8.—(1) Where the Secretary of State is satisfied that the construction or improvement of a road is needed—

(a) outside the area of a new town, for the purpose of securing the development of land in that area in accordance with proposals approved by the Secretary of State under section 6 of this Act, or

(b) for the purpose of providing proper means of access to such an area,

a local highway authority may be authorised, by means of an order made by the authority and submitted to and confirmed by the Secretary of State in accordance with the provisions of Parts I and II of Schedule 3 to this Act, to acquire compulsorily any land as to which the Secretary of State is satisfied that its acquisition by the authority is requisite—

(i) for the construction or improvement of the road, or

(ii) for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting on or adjacent to the road.

(2) Where the Secretary of State is satisfied that the construction or improvement of a road is needed to supersede a part of a trunk road whose supersession appears to him to be expedient for any such purpose as is mentioned in subsection (1)(a) or (b) above, he may be authorised, by means of an order made by him in accordance with the provisions of Part III of Schedule 3 to this Act, to acquire compulsorily any land as to which he is satisfied that its acquisition by him is requisite—

(a) for the construction or improvement of the road, or

(b) for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting on or adjacent to the road.

(3) A compulsory purchase order under this section shall, in so far as it relates to land—

(a) which is the property of a local authority or which is held inalienably by the National Trust, or

(b) which forms part of a common or open space,

be subject to the special provisions of Part IV of the said Schedule 3.

(4) Where an acquiring authority have been authorised under subsection (1) or subsection (2) above to acquire compulsorily land forming part of a common or open space, that

authority may be authorised under the same subsection to acquire compulsorily land for giving in exchange for the land acquired.

(5) The provisions of Part V of Schedule 3 to this Act shall have effect with respect to the validity and date of operation of compulsory purchase orders under this section.

(6) A local highway authority may, with the consent of the Secretary of State, acquire by agreement any land which they could be authorised under subsection (1) above to acquire compulsorily.

(7) In relation to operational land of statutory undertakers the foregoing provisions of this section shall have effect subject to section 10 of this Act.

Recording of compulsory purchase orders.

9. As soon as may be after a compulsory purchase order under section 7 or 8 of this Act becomes operative, the acquiring authority shall record it in the Register of Sasines.

Special procedure for acquisition of statutory undertakers' operational land.

10.—(1) In the case of operational land of statutory undertakers—

(a) an order under section 7(1) of this Act authorising the compulsory acquisition of that land by a development corporation, or an order under section 8(1) of this Act authorising its compulsory acquisition by a local highway authority, may, instead of being made and confirmed as provided in the said section 7(1) or 8(1), as the case may be, be made by the Secretary of State and the appropriate Minister in accordance with the provisions of Part I of Schedule 4 to this Act on the application of that development corporation or local highway authority ;

(b) an order under section 8(2) of this Act authorising the compulsory acquisition of that land by the Secretary of State may, instead of being made as provided in the said section 8(2), be made by the Secretary of State and the appropriate Minister in accordance with the provisions of Part II of the said Schedule 4 ;

and in relation to a compulsory purchase order made as provided in paragraph (a) or (b) above the provisions of Parts IV and V of Schedule 3 to this Act shall apply accordingly subject, in the case of the said Part V, to the modifications set out in Part III of Schedule 4 to this Act.

(2) If any objection to an application for a compulsory purchase order to be made in accordance with subsection (1)(a) above, or to a proposal to make such an order in accordance with subsection (1)(b) above, is duly made by any statutory undertakers, and any of the land to which the application or

proposal relates is operational land of those undertakers, then, unless that objection is withdrawn, any order made on the application or proposal shall be subject to special parliamentary procedure.

(3) Where a compulsory purchase order under section 7 or 8 of this Act, not being an order made as provided in subsection (1)(a) or (b) above, is submitted, or is proposed to be made, in accordance with Schedule 3 to this Act, and with respect to any land (being the whole or part of the land to which the order relates) statutory undertakers make to the appropriate Minister, in the prescribed manner and within the time within which objections to the order may be made—

(a) a representation that the first-mentioned land is operational land, and

(b) a request for that land to be excluded from the order, and it is determined that that land is operational land, then, subject to the following provisions of this section—

(i) if that land constitutes the whole of the land to which the order relates, the order shall not be confirmed or not be made, as the case may be, and

(ii) if that land forms part only of the land to which the order relates, the order shall be modified so as to exclude that land.

(4) Where it is proposed to make an order under section 1 of this Act, any statutory undertakers may, with respect to any land within the area to be designated by the order as the site of the proposed new town, make to the appropriate Minister, in the prescribed form and within the time allowed for making objections to the order, a representation that that land is operational land.

(5) Where a representation is made under subsection (4) above with respect to any land, the Secretary of State and the appropriate Minister may make an order, which shall be subject to special parliamentary procedure, declaring that it is expedient that that land should be subject to compulsory acquisition.

(6) Where, in the case of a compulsory purchase order under section 7 of this Act, any land to which the order relates is within the area of a new town and is land in relation to which, apart from this subsection, subsection (3) above would apply, the said subsection (3) shall not apply in relation to that land—

(a) if no representation was made under subsection (4) above with respect thereto, or

(b) if an order under subsection (5) above has come into force with respect thereto.

Right to
require
development
corporation to
acquire land.

11. Where any land within the area designated by an order under section 1 of this Act as the site of a new town has not been acquired by the development corporation within the period of seven years from the date on which that order, or the amending order by virtue of which that area was first extended to include that land, became operative and has not been so acquired since the end of that period, any owner of that land may by notice in writing served on the corporation require them to purchase his interest therein ; and thereupon the corporation shall be deemed to have been authorised to acquire that interest compulsorily under the foregoing provisions of this Act, and to have served notice to treat in respect thereof on the date on which the notice was served on them under this section.

Application
of Lands
Clauses Acts
etc. and
modification
of Land
Compensation
(Scotland)
Act 1963, for
purposes of
this Act.

12.—(1) The Lands Clauses Acts and section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 are hereby incorporated with this Act subject to any necessary adaptations and to the provisions of Part I of Schedule 6 to this Act.

(2) The Land Compensation (Scotland) Act 1963 shall, in its application for the purposes of this Act, have effect subject to any necessary adaptations and to the provisions of Part II of Schedule 6 to this Act.

1845 c. 33.
1963 c. 51.

(3) A compulsory purchase order may make provision for the incorporation with this Act of section 70 of the Railways Clauses Consolidation (Scotland) Act 1845 (which relates to the exception of minerals from purchases) and sections 71 to 78 of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, or of the said section 70 only.

1923 c. 20.

Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order ; and for the purposes of any such incorporation of those sections, this Act and the compulsory purchase order shall be deemed to be the special Act.

Measure of
compensation
for acquisition
of statutory
undertakers'
operational
land.

13.—(1) Where statutory undertakers are entitled to compensation in respect of a compulsory acquisition under this Act of operational land, the provisions of Schedule 5 to this Act shall have effect as regards the assessment of the amount of that compensation.

(2) In this section "compensation in respect of a compulsory acquisition" includes compensation payable in connection with the acquisition for damage sustained by reason of the severing

of the land acquired from other land held therewith or otherwise injuriously affecting such other land, and compensation payable for disturbance or any other matter not directly based on the value of the land.

14.—(1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land and all other rights or servitudes in or relating to that land shall be extinguished, and any such apparatus shall vest in the acquiring authority.

Extinguishment of rights over land compulsorily acquired.

(2) Subsection (1) above shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking.

(3) In respect of any right or apparatus not falling within subsection (2) above, subsection (1) above shall have effect subject—

(a) to any direction given by the acquiring authority before the completion of the acquisition that the said subsection (1) shall not apply to any right or apparatus specified in the direction, and

(b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or servitude or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

(5) Any compensation payable under this section shall be determined in accordance with the Land Compensation (Scotland) Act 1963.

1963 c. 51.

Expedited completion of compulsory acquisition

15.—(1) Where the Minister having jurisdiction to do so confirms or makes a compulsory purchase order, and—

Order providing for expedited completion.

(a) the order as submitted or the draft of the order or the application for the order, as the case may be, contained, or included an application for, a direction under this section, and

(b) when he confirms or makes the order the said Minister is satisfied that it is requisite that the acquiring authority should have power to enter upon any land (being the whole or any part of the land to which the order relates) and to secure its vesting in that authority

before the expiry of the time which would be required for the service of notices to treat,

the order may include a direction that the provisions of this Act relating to expedited completion shall apply to the order so far as it relates to the first-mentioned land.

1943 c. 21.

(2) Where a compulsory purchase order containing a direction under this section is made in respect of land which has sustained war damage within the meaning of the War Damage Act 1943, being damage which has not been made good before the date on which the order is recorded under section 9 of this Act, the acquiring authority shall notify the Commissioners of Inland Revenue when the order is so recorded.

General effect of order providing for expedited completion.

16.—(1) The provisions of this section, of section 17 of this Act and of Schedule 7 to this Act shall have effect in relation to a compulsory purchase order which includes such a direction as is mentioned in section 15(1) of this Act.

(2) When the order becomes operative, the incorporated enactments shall apply as if, on the relevant date, a notice to treat had (except as provided by section 17 of this Act) been served on every person on whom under section 17 of the Act of 1845 the authority could have served such a notice.

(3) Subject to subsection (4) below the acquiring authority, at any time or from time to time after the order becomes operative, may execute, in respect of any area consisting of the whole or part of the relevant land, a declaration designating that area and stating—

(a) that they intend to enter upon the land in the designated area, and take possession thereof, at the end of such period as may be specified in the declaration (not being less than 28 days) from the date on which the service of notice on occupiers required by subsection (5) below is completed, and

(b) that at the end of that period they will expedite a notice of title which, on being recorded in the Register of Sasines, will vest the land in the designated area in the authority.

(4) A declaration under subsection (3) above shall not be executed before the end of the period of two months from the date of the recording of the order in accordance with section 9 of this Act:

Provided that the order may substitute a period shorter than two months for the purposes of the operation of this subsection in relation to any land, if the order as submitted or the draft of the order or the application for the order, as the case may be, so provided in relation thereto.

(5) As soon as may be after executing a declaration under subsection (3) above, the acquiring authority shall serve—

- (a) on every occupier of any of the land in the area designated by the declaration (other than land in which there subsists a tenancy to which section 17 of this Act applies) and
- (b) on every other person who has given information to the authority with respect to any land in that area, in pursuance of the invitation mentioned in paragraph 2(b) of Schedule 7 to this Act,

a notice describing the designated area and stating the effect of the declaration.

(6) At the end of the period specified in such a declaration in accordance with subsection (3)(a) above,—

- (a) the acquiring authority shall be entitled to enter upon, and take possession of, the land in the area designated by the declaration, or any of that land, without previous consent or compliance with sections 83 to 88 of the Act of 1845 ;
- (b) the acquiring authority shall expedite a notice of title containing a description of the land in that area and narrating the circumstances in which the land has been acquired ; and
- (c) on that notice of title being recorded in the Register of Sasines in accordance with section 80 of the Act of 1845, the land shall vest in the acquiring authority absolutely and free of any heritable security or charge as if, at the end of the period referred to in this subsection,—

(i) the circumstances in which under that Act, an authority authorised to purchase land have powers to expedite a notarial instrument (whether for vesting in themselves land or any interest in land, including the interest of any holder of a heritable security, or for extinguishing the whole or part of any charge) had arisen in respect of all the land in the designated area and in respect of all interests in that land, and

(ii) the acquiring authority had duly exercised those powers accordingly :

Provided that, in relation to tenancies to which section 17 of this Act applies, this subsection shall have effect subject to the provisions of that section.

(7) In this section—

“ the incorporated enactments ” means the provisions of the Lands Clauses Acts and the Land Compensation 1963 c. 51. (Scotland) Act 1963 as modified by Schedule 6 to this

Act and by the provisions of this section, of section 17 of this Act and of Schedule 7 to this Act ;

“ the relevant land ”, in relation to a compulsory purchase order, means the aggregate of the land in respect of which it is directed by the order, in accordance with section 15(1) of this Act, that the provisions of this Act relating to expedited completion shall apply to the order ;

and in this section and section 17 of this Act—

“ the relevant date ”, in relation to any land, means the date on which the compulsory purchase order in question is in accordance with section 9 of this Act recorded in the Register of Sasines.

(8) In this section and Schedule 7 to this Act—

(a) any reference to the notice of confirmation or making of a compulsory purchase order is a reference

(i) in the case of an order made by a development corporation or local highway authority, to the notice of its confirmation, and

(ii) in the case of an order made by the Secretary of State, or by the Secretary of State and the appropriate Minister, to the notice of its making ;

(b) any reference to a charge includes a reference to any feu duty, ground annual, rent or other annual or recurring payment or incumbrance.

17.—(1) The tenancies to which this section applies are—

(a) short tenancies, and

(b) long tenancies which are about to expire.

(2) Notwithstanding anything in section 16(2) of this Act, no notice to treat shall by virtue of that subsection be deemed to have been served on any person in respect of a tenancy to which this section applies.

(3) Land in which there subsists a tenancy to which this section applies is excepted from section 16(5)(a) of this Act, and the reference in that paragraph to land excepted from that paragraph by this section shall be construed accordingly.

(4) Where any land in an area designated by a declaration under section 16(3) of this Act is land in which a short tenancy is subsisting, then (without prejudice to any power, exercisable by virtue of the Lands Clauses Acts, to require a tenant to give up possession) the right of entry conferred by section 16(6) of this Act shall not be exercisable in respect of that land, and the vesting of the land in the acquiring authority by virtue of the said section 16(6) shall be subject to the tenancy during its subsistence.

Special provisions as to certain tenancies.

(5) Where any land in an area designated by a declaration under section 16(3) of this Act is land in which a long tenancy which is about to expire is subsisting—

- (a) the right of entry conferred by section 16(6) of this Act shall not be exercisable in respect of that land unless the acquiring authority have served a notice to treat in respect of the tenancy and have thereafter served upon every occupier of any of the land in which the tenancy subsists a notice, stating that, at the end of such period as may be specified in that notice (not being less than 28 days) from the date on which the notice is served, they intend to enter upon and take possession of such land as may be specified in that notice, and that period has expired, and
- (b) the vesting of the land in the acquiring authority shall be subject to the tenancy until the end of that period or the expiration of the tenancy, whichever first occurs.

(6) In this section “short tenancy” means a tenancy for a year or from year to year or any lesser interest.

(7) In this section “long tenancy which is about to expire” means a tenancy granted for a period longer than one year or from year to year, but having at the relevant date a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this subsection be specified in the order in relation to the land in which the tenancy subsists); and in determining for the purposes of this subsection what period a tenancy still has to run at the relevant date it shall be assumed—

- (a) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and
- (b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

Disposal of land by development corporations

18.—(1) Subject to this section and to any directions given by the Secretary of State under this Act, the development corporation established for the purposes of a new town may dispose of any land acquired by them (whether or not, in the case of land within the area of the new town, the development of that particular land has been proposed or approved under section 6(1) of this Act) to such persons, in such manner, and subject to such covenants or conditions, as they consider expedient for securing the development of the new town in accordance

Disposal
of land by
development
corporation.

with proposals approved by the Secretary of State under the said section 6(1), or for purposes connected with the development of the new town.

(2) The powers of a development corporation with respect to the disposal of land acquired by them under this Act shall be so exercised as to secure, so far as practicable, that persons who were living or carrying on business or other activities on land so acquired shall, if they desire to obtain accommodation on land belonging to the corporation, and are willing to comply with any requirements of the corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them:

Provided that a development corporation shall not have any duty to afford to a person who was carrying on a business of selling exciseable liquor by retail on land acquired by them an opportunity of obtaining alternative accommodation for such a business.

(3) Where land is disposed of under this section by a development corporation to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.

(4) Nothing in this Act shall be construed as enabling a development corporation to dispose of land by way of gift or in security, but subject as aforesaid references in this Act to the disposal of land by a development corporation shall be construed as references to the disposal thereof by way of feu, excambion or lease, by the creation of any servitude, right or privilege, or otherwise.

(5) Subject to the provisions of subsection (2) of this section, a development corporation shall not, except with the consent of the Secretary of State, dispose of land otherwise than on the best terms that can reasonably be obtained.

Powers exercisable in relation to land acquired by development corporations or highway authorities

Power to
override
servitudes and
other rights.

19.—(1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired by a development corporation or local highway authority for the purposes of this Act, whether done by the corporation or authority or by any other person, is authorised by virtue of this section if it is done in accordance with planning

permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the use of land arising by virtue of any deed or contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(2) This section applies to the following interests and rights, that is to say, any servitude, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) In respect of any interference or breach in pursuance of subsection (1) above, compensation shall be payable under section 61 of the Lands Clauses Consolidation (Scotland) Act 1845 c. 19. 1845 or section 6 of the Railways Clauses Consolidation 1845 c. 33. (Scotland) Act 1845, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with an acquisition by a development corporation or local highway authority or the injury arises from the execution of works on land acquired by such a corporation or authority.

(4) Where a person other than the development corporation or local highway authority by whom the land in question was acquired is liable to pay compensation by virtue of subsection (3) above, and fails to discharge that liability, the liability shall be enforceable against that corporation or authority:

Provided that nothing in this subsection shall be construed as affecting any agreement between that corporation or authority and any other person for indemnifying the corporation or authority against any liability under this subsection.

(5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than such an interference or breach as is mentioned in subsection (1) above.

(6) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.

Use and development of churches and burial grounds.

20.—(1) Any land consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground or part of a burial ground, which has been acquired for the purposes of this Act by a development corporation or local highway authority, or which has been acquired under this Act by the Secretary of State, may—

- (a) in the case of land acquired by such a corporation or authority, be used by them, or by any other person, in any manner in accordance with planning permission, and
- (b) in the case of land acquired by the Secretary of State, be used in any manner by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to churches or such other buildings as aforesaid or to burial grounds or any obligation or restriction imposed under any deed or agreement or otherwise in respect of that church or other building or burial ground or part thereof:

Provided that this subsection shall not have effect in respect of any such land as aforesaid until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, in or upon the land have been complied with.

(2) Provision shall be made by any regulations made for the purposes of the proviso to subsection (1) above—

- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments ;
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed ;
- (c) for requiring compliance with any directions given in any case by the Secretary of State, after consultation with the church authorities in the case of a church or churchyard, with respect to the manner of removal, and the place and manner of reinterment of any human remains, and the disposal of any monuments ; and
- (d) with regard to such incidental and consequential matters (including the closing of registers) as appear

to the Secretary of State to be expedient for the purposes of the regulations.

(3) Subject to the provisions of any such regulations, no authority shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments.

(4) Any power conferred by this section to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.

(5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) above.

(6) Subsection (6) of section 19 of this Act shall apply in relation to this section as it applies in relation to that section.

(7) In this section "burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and "monument" includes a tombstone or other memorial and any fixture or furnishing.

21.—(1) Any land being, or forming part of, a common or open space, which has been acquired for the purposes of this Act by a development corporation or local highway authority, or which has been acquired under this Act by the Secretary of State, may—

Use and development of open spaces.

(a) in the case of land acquired by such a corporation or authority, be used by them, or by any other person, in any manner in accordance with planning permission, and

(b) in the case of land acquired by the Secretary of State, be used in any manner by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.

(2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) above.

(3) Subsection (6) of section 19 and subsection (4) of section 20 of this Act shall apply in relation to this section as those subsections apply respectively in relation to those sections.

Displacement
of persons
from land
acquired.

22.—(1) Where any land has been acquired for the purposes of this Act by a development corporation or local highway authority, and the carrying out of redevelopment on the land will involve the displacement of persons residing in premises thereon, it shall be the duty of the corporation or authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.

Where the land so acquired is within the area of a new town, the references in this subsection to residential accommodation shall be construed as references to residential accommodation in that area.

1966 c. 49.

(2) Section 168 of the Housing (Scotland) Act 1966 (which imposes obligations as to the provision of housing accommodation where land is acquired under statutory powers) shall not apply in relation to an acquisition under this Act.

(3) If the Secretary of State certifies that possession of a house which has been acquired for the purposes of this Act by a development corporation or local highway authority and is for the time being held by that corporation or authority for the purposes for which it was acquired, is immediately required for those purposes, nothing in the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 shall prevent that corporation or authority from obtaining possession of the house.

(4) Where any land has been acquired for the purposes of this Act by a development corporation or local highway authority, or has been acquired under this Act by the Secretary of State, and the acquiring authority require possession of a building on the land, or of part of such a building, for the purposes for which the land was acquired, then at any time after the tenancy of the occupier has expired or has been determined the acquiring authority may serve a notice on the occupier of the building or part of the building requiring him to remove therefrom within 21 days; and, in the event of that period having expired without the notice to remove having been complied with, a certified copy of the notice shall be sufficient warrant for ejection against the occupier or any party in his right.

1957 c. 25.

Nothing in this subsection shall affect the operation of section 16 of the Rent Act 1957 (which lays down the minimum length of notice to quit premises let as a dwelling) in cases to which that section applies.

(5) Where any land has been acquired for the purposes of, or under, this Act by a development corporation or a local

highway authority or the Secretary of State, the acquiring authority—

- (a) may pay to any person who is displaced in the carrying out of redevelopment on the land such reasonable allowance as the acquiring authority think fit towards his expenses in removing, and
- (b) may pay to a person carrying on any business in a building from which he is so displaced such reasonable allowance as the acquiring authority think fit towards the loss which, in the acquiring authority's opinion, that person will sustain by reason of the disturbance to his business consequent on his having to quit the building.

(6) In estimating loss for the purposes of subsection (5)(b) above, the acquiring authority shall have regard to the period for which the premises occupied by the person referred to in that paragraph might reasonably have been expected to be available for the purpose of that person's business, and to the availability of other premises suitable for that purpose.

23.—(1) Where any land—

- (a) has been acquired for the purposes of this Act by a development corporation or local highway authority and is for the time being held by that corporation or authority for those purposes, or
- (b) has been acquired under this Act by the Secretary of State and is for the time being held for the purposes for which he acquired it,

Extinguishment of public rights of way over land acquired.

the Secretary of State may by order extinguish any public right of way over the land.

(2) Where the Secretary of State proposes to make an order under this section, he shall publish in such manner as appears to him to be requisite a notice—

- (a) stating the effect of the order, and
- (b) specifying the time (not being less than 28 days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made,

and shall serve a like notice—

- (i) on the local planning authority in whose district the land is situated, and
- (ii) on the relevant highway authority.

In this subsection "the relevant highway authority" means any authority who are a highway authority in relation to the

right of way proposed to be extinguished by the order, other than an authority who have applied for the order to be made.

(3) Where an objection to a proposal to make an order under this section is duly made and is not withdrawn, the provisions of Schedule 8 to this Act shall have effect in relation to the proposal.

(4) For the purposes of this section an objection to such a proposal shall not be treated as duly made unless—

- (a) it is made within the time and in the manner specified in the notice required by this section, and
- (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(5) Where it is proposed to make an order under this section extinguishing a public right of way over a road on land acquired for the purposes of this Act by a development corporation, and compensation in respect of restrictions imposed under section 1 or section 2 of the Restriction of Ribbon Development Act 1935 in respect of that road has been paid by the highway authority (or, in the case of a trunk road, by the authority who, when the compensation was paid, were the authority for the purposes of section 4 of the Trunk Roads Act 1936), the order may provide for the payment by the development corporation to that authority, in respect of the compensation so paid, of such sums as the Secretary of State, with the consent of the Treasury, may determine.

1935 c. 47.

1936 c. 5
(1 Edw. 8 &
1 Geo. 6).

(6) Where the Secretary of State is satisfied that the construction or improvement of a road is or will be needed in consequence of the extinguishment under this section of a public right of way, section 8 of this Act shall apply as it applies where the Secretary of State is satisfied that the construction or improvement of a road is needed as mentioned in subsection (1) of that section.

Provisions as
to telegraphic
lines.

24.—(1) Where an order under section 23 of this Act extinguishing a public right of way is made on the application of a development corporation or local highway authority, and at the time of the publication of the notice required by subsection (2) of that section there was under, in, on, over, along or across the land over which the right of way subsisted a telegraphic line belonging to or used by the Postmaster General—

- (a) the power of the Postmaster General to remove the line shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished, and shall be exercisable in respect of the whole or any part of the line after the

end of that period if before the end of that period the Postmaster General has given notice to the development corporation or local highway authority of his intention to remove the line or that part thereof, as the case may be ;

- (b) the Postmaster General may by notice given in that behalf to the development corporation or local highway authority not later than the end of the said period of three months abandon the telegraphic line or any part thereof ;
- (c) subject to paragraph (b) above, the Postmaster General shall be deemed at the end of that period to have abandoned any part of the line which he has then neither removed nor given notice of his intention to remove ;
- (d) the Postmaster General shall be entitled to recover from the development corporation or local highway authority the expense of providing, in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line, a telegraphic line in such other place as the Postmaster General may require ;
- (e) where under the foregoing provisions of this subsection the Postmaster General has abandoned the whole or any part of a telegraphic line, it shall vest in the development corporation or local highway authority, and the provisions of the Telegraph Acts 1863 to 1962 shall not apply in relation to the line or that part thereof with respect to anything done or omitted after its abandonment.

(2) In this section "telegraphic line" has the same meaning as in the Telegraph Act 1878.

1878 c. 76.

25.—(1) Section 10 of the Development and Road Improvement Funds Act 1909 (which enables the Secretary of State to authorise the construction of new roads in respect of which advances are made under that Act and provides for the expenses of the construction, and for the maintenance, of such roads) shall apply in relation to the construction of a new road by a local highway authority on land transferred to or acquired by them under this Act as if the road were a road in respect of the construction of which an advance were made to that authority under that section.

Construction of roads.

1909 c. 47.

(2) The Secretary of State may direct that any road constructed by him on land transferred to or acquired by him under this Act shall, on such date as may be specified in the direction,

become a trunk road within the meaning of the Trunk Roads Acts 1936 and 1946; and the provisions of those Acts shall apply to the road accordingly.

Statutory undertakers

Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers.

26.—(1) This section applies to land—

- (a) which has been acquired for the purposes of this Act by a development corporation or local highway authority and is for the time being held by that corporation or authority for those purposes, or
- (b) which has been acquired under this Act by the Secretary of State and is for the time being held for the purposes for which he acquired it.

(2) Where, in the case of any land to which this section applies—

- (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, or
- (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,

the acquiring authority may serve on the statutory undertakers a notice stating that, at the end of such period as may be specified in the notice, the right will be extinguished, or requiring that, before the end of such period as may be so specified, the apparatus shall be removed.

(3) The statutory undertakers on whom a notice is served under subsection (2) above may, before the end of the period of 28 days from the service of the notice, serve a counter-notice on the acquiring authority stating that they object to all or any of the provisions of the notice, and specifying the grounds of their objection.

(4) If no counter-notice is served under subsection (3) above—

- (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and
- (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the acquiring authority may remove the apparatus and dispose of it in any way the authority may think fit.

(5) If a counter-notice is served under subsection (3) above on a development corporation or local highway authority, the corporation or authority may either withdraw the notice (without prejudice to the service of a further notice) or may apply to the Secretary of State and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification; and if such an application is made, the Secretary of State and the appropriate Minister may make an order under this section accordingly.

(6) If a counter-notice is served under subsection (3) above on the Secretary of State, he may withdraw the notice (without prejudice to the service of a further notice) or he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.

(7) Where, by virtue of this section, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring authority at whose instance the right was extinguished or the requirement imposed; and the provisions of Schedule 5 to this Act shall have effect as regards the assessment of the amount of that compensation.

27.—(1) Where the Secretary of State and the appropriate Minister propose to make an order under section 26(6) of this Act, they shall prepare a draft of the order.

(2) Before making an order under section 26(5) or (6) of this Act, the Ministers proposing to make the order—

(a) shall afford to the statutory undertakers on whom notice was served under subsection (2) of that section an opportunity of objecting to the application for, or proposal to make, the order, and

(b) if any objection is made, shall cause an inquiry to be held,

and may then, if they think fit, make the order in accordance with the application or in accordance with the draft order, as the case may be, either with or without modification.

(3) Where an objection to an order under the said section 26 is duly made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.

(4) Subject to subsection (3) above, where an order is made under section 26 of this Act—

(a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order, and

- (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring authority may remove the apparatus and dispose of it in any way the authority may think fit.

Extension or modification of functions of statutory undertakers.

28.—(1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

- (a) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for the purposes of a new town under this Act, or
- (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in subsection (2) below.

(2) The said acts and events are—

- (a) the acquisition under this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking ;
- (b) the extinguishment of a right or the imposition of any requirement by virtue of section 26 of this Act.

(3) The powers conferred by this section shall also be exercisable where, on a representation made by a development corporation, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for the purposes of a new town under this Act.

(4) Where the powers conferred by this section are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the provision of the services in question, as mentioned in subsection (1)(a) or (3) above, or to facilitate the adjustment in question, as mentioned in subsection (1)(b) above, as the case may be.

(5) Without prejudice to the generality of subsection (4) above, an order under this section may make provision—

- (a) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any building or works so specified ;
- (b) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments

relating to the acquisition of land and the construction of works ;

- (c) where it has been represented that the making of the order is expedient for the purposes mentioned in subsection (1)(a) or (3) above, for giving effect to such financial arrangements between the development corporation and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order ;
- (d) for such incidental and supplemental matters (including the amendment or repeal of any provision in any local enactment) as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

29.—(1) As soon as may be after making such a representation as is mentioned in section 28(1) or (3) of this Act—

Procedure in relation to orders under s. 28.

- (a) the statutory undertakers, in a case falling within subsection (1) of that section, or
- (b) the development corporation, in a case falling within subsection (3) thereof,

shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time (not being less than 28 days) within which, and the manner in which, objection to the making of an order on the representation may be made, and shall serve a like notice on any persons appearing from the valuation roll to have an interest in any land to which the representation relates, and shall also, if it is so directed by the Secretary of State and the appropriate Minister, serve a like notice on such other persons, or persons of such classes, as may be so directed.

(2) Orders under the said section 28 shall be subject to special parliamentary procedure.

30.—(1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.

Relief of statutory undertakers from obligations rendered impracticable.

(2) Subsection (1) above applies to the following acts and events, that is to say—

- (a) the compulsory acquisition under this Act of any land

- in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking ;
- (b) the extinguishment of a right or the imposition of any requirement by virtue of section 26 of this Act.

(3) As soon as may be after making a representation to the appropriate Minister under subsection (1) above, the statutory undertakers shall, as may be directed by the appropriate Minister, either—

- (a) publish (in such form and manner as may be so directed) a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time (not being less than 28 days) within which, and the manner in which, objections to the making of an order on the representation may be made, or
- (b) serve such a notice on such persons, or persons of such classes, as may be so directed, or
- (c) both publish and serve such notices.

(4) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.

(5) As soon as may be after an order has been made under this section the appropriate Minister shall publish in such form and manner as he thinks fit a notice stating that the order has been made.

(6) The provisions of Part V of Schedule 3 to this Act as to the validity and date of operation of compulsory purchase orders shall have effect in relation to an order under this section with the substitution for references to a compulsory purchase order and to publication in accordance with the provisions of that Schedule in that behalf of references to an order under this section and to publication in accordance with subsection (5) above.

Objections to orders under ss. 28 and 30.

31.—(1) For the purposes of sections 28 and 30 of this Act an objection to the making of an order thereunder shall not be treated as duly made unless—

- (a) the objection is made within the time and in the manner specified in the notice required by the section under which the order is proposed to be made, and
- (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(2) Where an objection to the making of such an order is duly made in accordance with subsection (1) above and is not withdrawn, the provisions of Schedule 8 to this Act shall have effect in relation thereto.

Provision of trolley vehicle services by development corporations

32.—(1) The development corporation established for the purposes of a new town may by means of an order made by the Minister of Transport be authorised to operate trolley vehicle services for the purposes of the new town.

Power to authorise provision of trolley vehicle services by development corporation.

(2) An order under this section may impose such conditions as appear to the Minister of Transport to be required in the interests of the public safety, and may contain such incidental and consequential provisions as appear to that Minister to be necessary or expedient for the purposes of the order, including provisions—

- (a) authorising the construction and maintenance in highways of any works or equipment required in connection with the services ;
- (b) providing for the making and enforcement of regulations and byelaws with respect to the construction and operation of any vehicles or equipment used for the purposes of the services, and with respect to the conduct of passengers on, and of the drivers and conductors of, any such vehicles.

(3) An order under this section shall be subject to special parliamentary procedure.

Public services

33.—(1) Where an order is made under section 1 of this Act designating an area as the site of a new town and the Secretary of State is satisfied that, in consequence of the making of that order, it is expedient that two or more local authorities should combine for the purpose of providing and maintaining sewerage or other services for that area or any larger area which comprises that area, the Secretary of State may make an order under section 120 of the Local Government (Scotland) Act 1947 combining the authorities for that purpose, notwithstanding—

Combination of authorities for provision of services.

1947 c. 43.

- (i) that no application in that behalf is made to him by any of these authorities, and
- (ii) the provisions of subsection (5) of the said section 120.

(2) If, as a result of—

- (a) the combining of authorities under an order made under subsection (1) above, or
- (b) anything done under such an order,

any person (who, immediately before the order came into force,

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was an officer or servant of a local authority affected by the order)—

- (i) is transferred to the employment of any joint committee set up under the order or of any other authority in the combination, or
- (ii) has his appointment terminated, or
- (iii) suffers diminution in his emoluments,

and in any case suffers a direct pecuniary loss by reason of such transfer, termination or diminution, that person shall, unless provision for his compensation for that loss is made by or under any other enactment, be entitled to receive compensation from the local authority or such authority as may be specified in the order.

1947 c. 43.

(3) The provisions of section 318 of, and Schedule 11 to, the Local Government (Scotland) Act 1947 shall apply in relation to claims for compensation under subsection (2) above as they apply in relation to claims for compensation under that Act, subject to such necessary modifications as the Secretary of State may by order prescribe.

Power to
authorise
provision of
services by
development
corporation.

34.—(1) If, after consultation with—

- (a) the local authority or, as the case may be, regional water board who are responsible for the provision of water, sewerage or other services for an area designated by an order under section 1 of this Act as the site of a new town or any part of that area, and
- (b) the development corporation established for the purpose of that order,

the Secretary of State is satisfied that it is expedient so to do, he may by an order made under this subsection authorise the development corporation to exercise, for the purpose of providing and maintaining any such service, such powers (other than a power to raise money by rate or loan) as may be specified in the order, being powers which the local authority or, as the case may be, regional water board could, or could be authorised to, exercise for that purpose under any enactment.

(2) The Secretary of State may from time to time, after consultation with the local authority or, as the case may be, regional water board, direct that the expenditure incurred by the development corporation in the exercise of the powers conferred on them by an order under subsection (1) above, or such part of that expenditure as he may determine, shall be repaid by the local authority or, as the case may be, regional water board to the corporation on such terms and over such period as he may specify, and any sum directed to be paid under this subsection shall be recoverable by the corporation from the authority or board accordingly.

(3) Any expenditure incurred by the local authority or regional water board in making any payment under this section to the development corporation, representing the cost or part of the cost of the provision and maintenance of any service, shall be defrayed in like manner, and the local authority or regional water board shall have the like power to borrow money for the purpose, as if the service had been provided by them.

Transfer of property and undertakings of development corporations, and their dissolution

35.—(1) Subject to the provisions of this section, a development corporation may, by an agreement made with any local authority or any statutory undertakers and approved by the Secretary of State with the concurrence of the Treasury—

Power of development corporation to transfer their undertakings.

- (a) transfer to that local authority any part of the undertaking of the corporation, or
- (b) transfer to those statutory undertakers any part of the undertaking of the corporation which consists of a statutory undertaking,

upon such terms as may be prescribed by the agreement.

The foregoing provision is without prejudice to the powers of development corporations under this Act to dispose of any of their property, including any trade or business carried on by them.

(2) Before approving an agreement under this section the Secretary of State shall consult with the council of the county or burgh in which the whole or any part of the area of the new town is situated, except where the agreement is made with that council.

(3) Before approving an agreement under this section for the transfer of a statutory undertaking, the Secretary of State shall publish in the Edinburgh Gazette, and in one or more newspapers circulating in the area in which the new town is situated, a notice stating that the agreement has been submitted for approval, and describing the general effect of the agreement.

(4) If, within 28 days from the publication of the notice in the Edinburgh Gazette in accordance with subsection (3) above, any objection to the agreement is made by any statutory undertakers who, within the area in which the new town is situated or any area adjacent thereto, are carrying on, or are authorised to carry on, a statutory undertaking of a character similar to the statutory undertaking proposed to be transferred by the agreement, subsection (1) above shall apply in relation to the agreement as if for the reference to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

(5) If the Secretary of State is satisfied that it is expedient, having regard to any agreement made or proposed to be made under this section, that the liability of the development corporation in respect of advances made to them under the following provisions of this Act should be reduced, he may, by an order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order.

Section 46(6) of this Act applies to orders under this subsection.

(6) The payment of any sums payable by a local authority for the purposes of an agreement under this section shall be a purpose for which that authority may borrow money.

Winding up of
development
corporation.

36.—(1) Where the Secretary of State is satisfied that the purposes for which a development corporation was established under this Act have been substantially achieved, and is further satisfied, with the concurrence of the Treasury, that the circumstances are not such as to render it expedient on financial grounds to defer the disposal of the undertaking of the corporation under this section, he shall by order provide for the winding up and dissolution of the corporation.

(2) At any time after an order has been made under subsection (1) above, the Secretary of State may, with the consent of the Treasury, by order provide for the transfer of the undertaking or any part of the undertaking of the corporation to such local authority (being an authority within whose area the new town or any part thereof is situated) as may be specified in the order or, in so far as that undertaking consists of a statutory undertaking, to such statutory undertakers as may be so specified:

Provided that—

(a) before making any such order the Secretary of State shall consult with

(i) the council of the county or the town council of the burgh in which the new town or any part thereof is situated,

(ii) any other local authority and any statutory undertakers to whom the undertaking or part of the undertaking of the corporation will be transferred by virtue of the order, and

(iii) any statutory undertakers (not being such undertakers as aforesaid) who, immediately before the date on which the order under section 1 of this Act designating the site of the new town became operative, were authorised to carry on within the area designated by that order an undertaking similar to the undertaking or part of the undertaking which will be so transferred as aforesaid; and

(b) an order under this subsection shall be of no effect until an order defining the terms on which the transfer is to be made has become operative under the subsequent provisions of this section.

(3) Where provision is made under subsection (2) above for the transfer of the undertaking or any part of the undertaking of the development corporation to a local authority or statutory undertakers, the terms upon which the transfer is to be made shall be such as may be determined by an order made by the Secretary of State with the consent of the Treasury, and any such order may provide for the payment by that authority of those undertakers, in consideration of the transfer, of such sum as may be specified in the order, to be satisfied in such manner as may be so specified:

Provided that not less than 28 days before making an order under this subsection, the Secretary of State shall serve a copy of the proposed order on the local authority or statutory undertakers to whom the undertaking or any part of the undertaking of the corporation is to be transferred, and if any objection is made by them within 28 days after the service of the notice, the order shall be subject to special parliamentary procedure.

(4) If the Secretary of State is satisfied that it is expedient, having regard to the provisions of any order or orders made or proposed to be made under subsection (3) of this section, that the liability of the development corporation in respect of advances made to them under this Act should be reduced, he may, by an order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order:

Section 46(6) of this Act applies to orders under this subsection.

(5) An order under this section which provides for the transfer of the undertaking or any part of the undertaking of a development corporation to any local authority or statutory undertakers may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and in particular, but without prejudice to the generality of the foregoing provision, may extend or modify the powers and duties of that authority or those undertakers so far as appears to the Secretary of State to be necessary or expedient in consequence of the transfer:

Provided that—

(a) in relation to an order which provides for extending or modifying the powers and duties of any statutory undertakers, subsection (2) of this section shall have effect as if for the first reference therein to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister ; and

(b) no order under this section shall confer or impose upon any local authority any powers or duties which are exercisable within the area of that authority by any other local authority.

(6) An order under subsection (1) of this section may provide for the appointment and functions of a liquidator of the development corporation, and may authorise the disposal, in such manner as may be determined by or under the order, of any assets of the corporation which are not transferred to a local authority or statutory undertakers under the foregoing provisions of this section.

(7) Any surplus arising from the winding up of a development corporation under this section shall be paid into the Exchequer ; and any deficit shall be defrayed out of moneys provided by Parliament.

Financial and related provisions

Advances and grants by Secretary of State to development corporation.
1965 c. 59.

37.—(1) For the purpose of enabling a development corporation to meet expenditure properly chargeable to capital account (including the provision of working capital), the Secretary of State may, subject to section 43 of the New Towns Act 1965, make to the corporation advances repayable over such periods and on such terms as may be approved by the Treasury.

(2) For the purpose of enabling a development corporation to meet any other expenditure, the Secretary of State may, out of moneys provided by Parliament, make grants to the corporation of such amount as may be approved by the Treasury.

(3) It shall be a condition of the making of advances to a development corporation under subsection (1) above that the proposals for development submitted to the Secretary of State under section 6 of this Act shall be approved by the Secretary of State with the concurrence of the Treasury as being likely to secure for the corporation a return which is reasonable, having regard to all the circumstances, when compared with the cost of carrying out those proposals.

Provisions supplementary to s. 37.

38.—(1) The Treasury may issue to the Secretary of State out of the Consolidated Fund such sums as are necessary to enable him to make advances to a development corporation under section 37(1) of this Act.

(2) For the purpose of providing the whole or part of any sum to be issued under subsection (1) above, or of providing for the replacement in whole or in part of any sum so issued, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money

under the National Loans Act 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act. 1939 c. 117.

(3) Any sums received by the Secretary of State by way of repayment of or interest on advances under section 37(1) of this Act shall be paid into the Exchequer ; and the Secretary of State shall lay before each House of Parliament a statement of any sums payable to him by way of repayment of or interest on any such advances and not duly received by him.

(4) The sums paid into the Exchequer under subsection (3) above shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say—

- (a) so much of those sums as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit ; and
- (b) so much of those sums as represents interest shall be applied towards meeting such part of the annual charges for the national debt as represents interest.

39.—(1) Every development corporation shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year annual accounts in such form as the Secretary of State may with the approval of the Treasury direct. Accounts,
audit, annual
reports etc.

(2) The accounts of every development corporation shall be audited by an auditor to be appointed annually by the Secretary of State.

(3) No person shall be qualified to be so appointed auditor unless he is a member, or a firm of which all the partners are members, of one or more of the following bodies:—

- the Institute of Chartered Accountants of Scotland ;
- the Institute of Chartered Accountants in England and Wales ;
- the Association of Certified and Corporate Accountants ;
- the Institute of Chartered Accountants in Ireland ;
- any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 c. 38. 1948 by the Board of Trade.

(4) As soon as the annual accounts of a development corporation for any financial year have been audited, the corporation shall send to the Secretary of State a copy of the accounts prepared by them for that year in accordance with this section, together with a copy of any report made by the auditor thereon.

(5) The Secretary of State shall prepare in respect of each financial year, in such form and manner and at such times as the Treasury may direct, an account of the sums issued to him out of the Consolidated Fund and advanced to a development corporation under this Act and of sums received by him from that development corporation and paid into the Exchequer in respect of the principal of and interest on sums so advanced.

(6) On or before 30th November in each year, the Secretary of State shall transmit to the Comptroller and Auditor General the account prepared by him under subsection (5) above in respect of the last foregoing financial year; and the Comptroller and Auditor General shall examine and certify the account prepared by the Secretary of State and lay before each House of Parliament copies of that account together with his report thereon.

(7) As soon as possible after the end of each financial year every development corporation shall make to the Secretary of State a report dealing generally with the operations of the corporation during that year, and shall include in the report a copy of their audited accounts for that year; and the Secretary of State shall lay a copy of every such report before each House of Parliament.

(8) Without prejudice to the requirement imposed by subsection (7) above, every development corporation shall provide the Secretary of State with such information relating to their undertaking as the Secretary of State may from time to time require, and for that purpose shall permit any person authorised by the Secretary of State in that behalf to inspect and make copies of the accounts, books, documents or papers of the corporation and shall afford such explanation thereof as that person or the Secretary of State may reasonably require.

(9) The financial year of every development corporation shall begin with 1st April, and references to a financial year in relation to a development corporation shall be construed accordingly.

General
provision as
to expenses.

40. There shall be paid out of money provided by Parliament (in addition to any sums authorised or required by virtue of any other provision of this Act to be so paid)—

- (a) any expenses incurred by the Secretary of State in payment of compensation under section 14(4) or 26(7) of this Act;
- (b) any expenses incurred by the Secretary of State under section 20(2)(b) of this Act;
- (c) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

Miscellaneous and supplementary

41.—(1) References to undertakers in section 15 of the Local Government (Superannuation) Act 1953 (which enables local authorities to admit to their superannuation schemes employees of undertakers exercising powers under any Act or statutory order) shall include development corporations. Application of certain enactments. 1953 c. 25.

(2) The provisions of section 134 of the Burgh Police (Scotland) Act 1892 (which relates to the vesting in the town council of private streets in a burgh) shall extend to and have effect in relation to private streets, together with the footways thereof, in any area designated as the site of a new town so far as it is situated in the landward part of a county, as if for references to the town council there were substituted references to the county council, and as if after the words “the frontage of such street or part” there were inserted the words “or the development corporation”; and where in pursuance of the said section (as applied by this subsection) any street has become vested in the county council, it shall thereupon become a highway within the meaning and for the purposes of the Roads and Bridges (Scotland) Act 1878 and shall be added to the list of highways made up under section 41 of that Act. 1892 c. 55. 1878 c. 51.

(3) For the purposes of section 7(3) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which relates to the acquisition of inalienable land) this Act shall be deemed to have been passed before the commencement of that Act. 1947 c. 42.

42.—(1) Where an authority, being either a development corporation or a local highway authority or the Secretary of State, are authorised to acquire any land compulsorily under this Act or have under consideration the acquisition of any land compulsorily thereunder, any person, being an officer of the Valuation Office or a person authorised in writing by the said authority, may at any reasonable time enter upon the land for the purpose of surveying it or estimating its value. Rights of entry.

(2) Any person, being an officer of the Valuation Office or a person authorised in writing by the Secretary of State, may at any reasonable time enter upon any land for the purpose of surveying it or estimating its value in connection with any proposals relating to the land submitted or to be submitted under section 6(1) of this Act.

(3) A person authorised under the foregoing provisions of this section to enter upon any land shall, if so required, produce evidence of his authority before entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(4) Any person who obstructs a person acting in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding £20.

Local
Inquiries.

43.—(1) Subject to the following provisions of this section, the Minister may, for the purposes of the exercise of any of his functions under this Act, cause to be held such local inquiries as are directed by this Act and such other local inquiries as he may think fit.

(2) The Minister shall appoint a person to hold the inquiry and to report thereon to him.

(3) The person appointed to hold the inquiry shall notify any person who has lodged, and has not withdrawn, objections in relation to any matter in question at the inquiry, and shall publish in such newspaper or newspapers as the Minister may direct a notice, of the time when and the place where the inquiry is to be held.

(4) The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry:

Provided that—

- (i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides, unless the necessary expenses are paid or tendered to him; and
- (ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

(5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under subsection (4) of this section or to give evidence, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice, shall be liable on summary conviction to a fine not exceeding £20 or to imprisonment for a period not exceeding three months.

(7) The Minister may make orders as to the expenses incurred by the parties to the inquiry and, where the inquiry arises out of a proposed acquisition of land by a development corporation or the proposed extinction of a right of way over land acquired or proposed to be acquired by a development corporation, as to the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry), and as to the parties by whom such expenses shall be paid.

(8) Any order of the Minister under subsection (7) of this section requiring any party to pay expenses may be enforced in like manner as a recorded decree arbitral.

(9) In this section the expression "Minister" means the Secretary of State, or any other Minister authorised under this Act to hold a local inquiry.

44.—(1) Where the Ministers concerned so direct—

(a) any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and

(b) any hearing in connection with—

(i) an appeal against the refusal, or the grant, subject to conditions, of an application by statutory undertakers for planning permission to develop operational land, or

(ii) such an application made by statutory undertakers and referred to the Secretary of State, or

(iii) the revocation or modification of planning permission to develop operational land granted to statutory undertakers,

Inquiries under Private Legislation Procedure (Scotland) Act 1936.

shall be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936. 1936 c. 52.

(2) Any such direction shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945.

1945 c. 18. (9 & 10 Geo. 6.)

(3) Paragraphs 4 and 5 of Schedule 8 to this Act shall not apply to an order such as is mentioned in subsection (1)(a) above.

(4) Nothing in subsections (2) to (9) of the last foregoing section shall apply to any inquiry to which subsection (1)(a) above applies.

(5) The provisions of the said Act of 1945 in relation to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything contained in that Act, not apply to any order under this Act which is subject to special parliamentary procedure.

Service of notices.

45.—(1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given either—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given, or
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given, at that address, or
- (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given, at that address, or
- (d) in the case of a person on whom service is required by this Act to be made as being a person appearing from the valuation roll to have an interest in land, by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his address as entered in the valuation roll, or
- (e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on or given to any person as having an interest in premises, and the name, or, as the case may be, the address, of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be deemed to be duly served if—

- (a) being addressed to him by the description of “the owner” or “the occupier”, as the case may be, of the premises (describing them), it is delivered, left or sent in the manner specified in subsection (1)(a), (b) or (c) above, or
- (b) being addressed to him either by name or in accordance with paragraph (a) of this subsection, and marked in such manner as may be prescribed for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the authority required to serve or give the notice or other document that any part of that land is unoccupied, the notice or documents shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than an owner who in accordance with the provisions of this Act in that behalf has given to that authority an address for the service of the notice on him) if, being addressed to "the owners and any occupiers" of that part of the land (describing it) and marked as mentioned in subsection (2)(b) above, it is affixed conspicuously to some object on the land.

(4) Where a notice or other document has been served or given in accordance with the foregoing provisions of this section, it shall be deemed to have been served or given—

(a) in the case of delivery, at the time of such delivery,

(b) in any other case, on the expiry of 48 hours after the time when it was actually served or given.

46.—(1) The Secretary of State may make regulations for the purpose of prescribing anything which is authorised or required to be prescribed under this Act. Regulations and orders.

(2) The power to make regulations under this Act shall be exercisable by statutory instrument; and any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power to make an order conferred by any of the provisions of this Act shall include a power, exercisable in the like manner and subject to the like conditions, to vary or revoke the order.

(4) The power to make an order conferred by section 1 of this Act shall be exercisable by statutory instrument.

(5) A statutory instrument containing an order under section 1 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament if—

(a) the order is one designating an area as the site of a proposed new town, or designating an additional area of not less than 500 acres which would extend the area of a new town by not less than ten per cent; and

(b) an objection to the order was duly made by a local planning authority and had not been withdrawn at the time the order was made.

(6) An order under section 35(5) or 36(4) of this Act shall be of no effect until it is approved by a resolution of the Commons House of Parliament.

- Interpretation. **47.**—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—
- “acquiring authority”, in relation to the acquisition under or for the purposes of this Act of any land (whether compulsorily or by agreement) or to a proposal so to acquire any land, means the development corporation, local highway authority or Minister of the Crown by whom the land is, or is proposed to be, acquired ;
- 1845 c. 19. “the Act of 1845” means the Lands Clauses Consolidation (Scotland) Act 1845 ;
- “the appropriate Minister”—
 - (a) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, means the Minister of Power ;
 - (b) in relation to statutory undertakers carrying on an undertaking for the supply of electricity or water, means the Secretary of State ; and
 - (c) in relation to any other statutory undertakers, means the Minister of Transport ;
- 1963 c. 51. “the arbiter” or “the official arbiter” means the official arbiter appointed under section 2 of the Land Compensation (Scotland) Act 1963 ;
- “common” includes any town or village green ;
 - “compulsory purchase order” means an order under section 7(1), 8(1) or 8(2) of this Act ;
 - “development” includes re-development and “develop” shall be construed accordingly ;
 - “development corporation” has the meaning assigned by section 2 of this Act ;
 - “enactment” includes an enactment in any local or private Act of Parliament, and an order, byelaw or scheme made under an Act of Parliament ;
- 1959 c. 51. “exciseable liquor” has the meaning assigned by section 199(1) of the Licensing (Scotland) Act 1959 ;
- “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 22 of the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935 ;
 - “land” includes land covered with water and any interest in land and any servitude or right in or over land ;
 - “local authority” means a county, town or district council, and includes any joint board or joint committee of which all the constituent authorities are such local

- authorities as aforesaid, but does not include a regional water board ;
- “ local highway authority ” means a highway authority other than the Secretary of State ;
- “ local planning authority ” means the local planning authority for the purposes of the Town and Country Planning (Scotland) Act 1947 c. 53.
- “ National Trust ” means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935 ; 26 Geo. 5. &
1 Edw. 8. c. ii.
- “ open space ” means any land laid out as a public garden, or used for purposes of public recreation, or any disused burial ground ;
- “ operational land ”, in relation to statutory undertakers, means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings ;
- “ owner ”, in relation to any building or land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the building or land to the promoters of an undertaking, and includes also a lessee under a lease or agreement the unexpired period of which exceeds three years ;
- “ planning permission ” means planning permission under the Town and Country Planning (Scotland) Act 1947 ;
- “ prescribed ” (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act ;
- “ regional water board ” has the meaning assigned to it by section 34(1) of the Water (Scotland) Act 1967 ; 1967 c. 78.
- “ statutory undertakers ” means persons authorised by any enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and “ statutory undertaking ” shall be construed accordingly ;
- “ trolley vehicle ” means a mechanically propelled vehicle adapted for use on roads without rails and moved by power transmitted to it from some external source ;

“Valuation Office” means the Valuation Office of the Inland Revenue Department;

“valuation roll” means the valuation roll for the year current at the time when the notice is served, or, if the notice is served after 15th May and before 1st October in any year, the valuation roll for the preceding year.

(2) Any reference in this Act to the area of a new town is a reference to the area designated as the site of that new town by an order under section 1 of this Act.

(3) Any reference in this Act to the Secretary of State and the appropriate Minister shall be construed, in relation to statutory undertakers for whom the Secretary of State is the appropriate Minister, as a reference to the Secretary of State.

(4) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury; and if, in relation to the authorisation under this Act of a compulsory acquisition of land, any question arises whether land of statutory undertakers is operational land, that question shall be determined by the Secretary of State and the appropriate Minister.

1963 c. 51. (5) As from the coming into operation of Part II of the Land Compensation (Scotland) Act 1963,—

(a) for any reference in this Act to the arbiter or the official arbiter there shall be substituted a reference to the Lands Tribunal for Scotland or, as the case may require, a member of that Tribunal; and

(b) for any reference in this Act to any provision contained in section 2, 3 or 5 of the said Act of 1963 there shall be substituted a reference to the corresponding provision contained respectively in section 8, 9 or 11 of that Act.

(6) A development corporation established for the purposes of an order under section 1 of this Act shall have power to act as the agents of a local authority or regional water board to carry out any function relating to the provision of water, sewerage or other services for the area designated by that order; and a local authority shall have power to act as the agents of a development corporation to carry out any of the functions of the corporation.

(7) If the Secretary of State is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is expedient that any area designated as the site of a

new town, or any part of such an area, so far as it is situated in the landward part of a county should be formed into a special district for any purpose for which a county council may form a special district, he may make an order declaring that area or part of the area to be a special district for that purpose; and thereupon the enactments relating to special districts formed for that purpose shall apply in relation to that special district as if it were a special district formed by the county council under those enactments:

Provided that the county council may, for such period as they may think proper, exempt the owners or occupiers of any lands and heritages within the special district from the whole or from a specified portion of any special district rate, on the ground that they cannot during that period benefit from any service within the district in respect of which that rate is levied.

(8) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.

(9) 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 other enactment, including this Act.

48.—(1) The saving and transitional provisions contained in Schedule 9 to this Act shall have effect.

Saving and transitional provisions, consequential amendments and repeals.

(2) The enactments specified in Schedule 10 to this Act shall have effect subject to the amendments therein specified, being amendments consequential on the repeals specified in Schedule 11 to this Act.

(3) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

49.—(1) This Act may be cited as the New Towns (Scotland) Act 1968.

Short title, commencement and extent.

(2) This Act shall come into operation on 1st April 1968.

(3) This Act shall extend to Scotland only.

SCHEDULES

Section 1.

SCHEDULE 1

PROCEDURE FOR DESIGNATING SITE OF NEW TOWN

Making of orders under section 1

1.—(1) Where the Secretary of State proposes to make an order under section 1 of this Act, he shall prepare a draft of the order, describing the area to be designated as the site of the proposed new town by reference to a map, either with or without descriptive matter, together with such statement as he considers necessary for indicating the size and general character of the proposed new town.

(2) In the case of any discrepancy between the map and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the draft order.

2. Before making the order the Secretary of State shall publish in the Edinburgh Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice—

- (a) describing the area to be designated as the site of the proposed new town ;
- (b) stating that the draft of an order under section 1 of this Act has been prepared by the Secretary of State in relation to that area and is about to be considered by him ;
- (c) naming a place within that area where a copy of the draft order (including any map or descriptive matter annexed thereto) and of the statement required by paragraph 1 above may be seen at any reasonable hour ; and
- (d) specifying the time (not being less than 28 days from the publication of the notice in the Gazette) within which, and the manner in which, objections to the proposed order may be made ;

and shall, not later than the date on which the notice is published in the Gazette, serve a like notice on the council of the county or on the town council of the burgh in which the land, or any part of the land, to which the order relates is situated, and on any other local authority who appear to him to be concerned with the order.

3. If any objection is duly made to the proposed order and is not withdrawn, the Secretary of State shall, before making the order, cause a public local inquiry to be held with respect to the objection, and shall consider the report of the person by whom the inquiry was held.

4. Subject to the provisions of paragraph 3 above, the Secretary of State may make the order either in terms of the draft or subject to such modifications as he thinks fit :

Provided that, except with the consent of all persons interested, the Secretary of State shall not make the order subject to a modification including in the area designated as the site of the proposed new town any land not so designated in the draft order.

SCH. 1

5. As soon as may be after an order has been made as aforesaid, the Secretary of State shall publish in the Edinburgh Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice stating that the order has been made and naming a place within the area designated by the order as the site of the proposed new town where a copy of the order may be seen at any reasonable hour, and shall serve a like notice—

- (a) on any local authority on whom notice of the proposed order was served under paragraph 2 above; and
- (b) on any other person who has duly made an objection to the proposed order and, at the time of making it or thereafter, has sent to the Secretary of State a request in writing to serve him with the notice required by this paragraph, giving an address for service.

Validity and date of operation of orders under section 1

6. If any person aggrieved by an order under section 1 of this Act desires to question the validity thereof, or of any provision contained therein, 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 in relation to the order, he may, within six weeks from the date on which notice of the making of the order is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session; and on any such application the Court—

- (a) may by interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the order or any provision contained therein is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

7. Subject to the provisions of paragraph 6 above, an order under section 1 of this Act shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in that paragraph.

SCHEDULE 2

Section 2.

CONSTITUTION AND PROCEEDINGS OF DEVELOPMENT CORPORATIONS

Appointment of members and tenure of office

1.—(1) The members of a development corporation (in this Schedule referred to as “the corporation”) shall be appointed by the Secretary of State after consultation with such local authorities as appear to him to be concerned with the development of the new

SCH. 2 town, and in appointing members of the corporation the Secretary of State shall have regard to the desirability of securing the services of one or more persons resident in or having special knowledge of the locality in which the new town will be situated.

(2) The Secretary of State shall appoint two of the members to be respectively chairman and deputy chairman of the corporation.

2. Subject to the following provisions of this Schedule, a member of the corporation, and the chairman and deputy chairman of the corporation, shall hold and vacate office as such in accordance with the terms of the instrument by which they are respectively appointed.

3. If the chairman or deputy chairman of the corporation ceases to be a member of the corporation, he shall also cease to be chairman or deputy chairman, as the case may be.

4. Any member of the corporation may, by notice in writing addressed to the Secretary of State, resign his membership; and the chairman or deputy chairman may, by the like notice, resign his office as such.

5. If the Secretary of State is satisfied that a member of the corporation—

(a) has become bankrupt or made an arrangement with his creditors; or

(b) is incapacitated by physical or mental illness; or

(c) has been absent from meetings of the corporation for a period longer than three consecutive months without the permission of the corporation; or

(d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member,

the Secretary of State may remove him from his office as a member of the corporation.

6. A member of the corporation who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for reappointment.

Remuneration

7. The corporation shall pay to their members, in respect of their office as such, such remuneration and such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Secretary of State with the consent of the Treasury, and shall pay to the chairman and deputy chairman, in respect of their office as such, such additional remuneration as may be so determined.

Meetings and proceedings

8. The quorum of the corporation and the arrangements relating to their meetings shall, subject to any directions given by the Secretary of State, be such as the corporation may determine.

9. The validity of any proceeding of the corporation shall not be affected by any vacancy among their members or by any defect in the appointment of any of their members.

Instruments, etc.

SCH. 2

10. The fixing of the seal of the corporation shall be authenticated by the signature of the chairman or of some other member authorised either generally or specially by the corporation to act for that purpose.

11. Any document purporting to be a document duly executed under the seal of the corporation shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

SCHEDULE 3

Sections 7, 8, 10.

PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITIONS

PART I

Acquisitions by development corporations and local highway authorities

1.—(1) A compulsory purchase order made under this Act by a development corporation or local highway authority—

(a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and

(b) subject to that, shall be in such form as may be prescribed.

(2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.

2.—(1) After submitting the order to the Secretary of State, the acquiring authority—

(a) shall publish a notice in the prescribed form describing the land, stating that an order authorising the compulsory acquisition thereof has been submitted to the Secretary of State, naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the first local advertisement) within which, and the manner in which, objections to the order may be made ; and

(b) shall serve on every person appearing from the valuation roll to have an interest in any of the land to which the order relates and on such other persons as the Secretary of State may specify, whether individually or as members of a class of persons, a notice to the like effect as the notice required to be published under head (a) above:

Provided that head (b) above shall not apply if the order relates only to land within the area of a new town.

(2) The notice required to be published by sub-paragraph (1)(a) above shall be published in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality

SCH. 3 in which the land to which the order relates is situated, and by affixing a copy of the notice, addressed to "the owners and any occupiers" of the land (describing it), to some conspicuous object or objects on the land.

(3) Publication and, if applicable, service in accordance with the foregoing provisions of this paragraph shall be effected—

(a) in the case of an order relating only to land within the area of a new town, as soon as may be after the order has been submitted ;

(b) in any other case, as soon as may be after the order has been submitted and service as aforesaid has been effected.

(4) In this paragraph "the first local advertisement", in relation to a notice, means the first publication of the notice in a newspaper circulating in the locality where the land to which the notice relates is situated, and includes, in relation to a notice so published once only, the publication thereof.

3. Subject to the provisions of paragraph 4 below in any case in which those provisions have effect, the Secretary of State may confirm the order with or without modification, but shall not, unless all persons interested consent, so modify it as to extend it to any land which was not designated by the order as submitted.

4.—(1) If any objection is duly made to the order and is not withdrawn, the following provisions of this paragraph shall have effect.

For the purposes of this Schedule an objection shall not be treated as duly made unless—

(a) it is made within the time and in the manner specified in the notice required by paragraph 2 above, and

(b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(2) Unless the Secretary of State decides apart from the objection not to confirm the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

(3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and any such further statement, is satisfied—

(a) that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, or

(b) in the case of an order relating to land within the area of a new town, that the objection is made on the ground that the acquisition is unnecessary or inexpedient,

the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.

(4) If, after considering the grounds of the objection as set out in the original statement and any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.

(5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before and being heard by a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the acquiring authority and to any other persons to whom it appears to the Secretary of State to be expedient to afford it.

(6) Notwithstanding anything in the foregoing provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time when he so determines shall be dispensed with.

(7) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to confirm the order or what modification, if any, ought to be made.

5. As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more newspapers circulating in the locality in which the land thereby designated is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and shall serve a like notice on—

- (a) any owner or occupier of any of the land thereby designated who, at any time after the publication of the notice of the order as submitted, has sent to the acquiring authority a request in writing to serve him with the notice required by this paragraph giving an address for service and the prescribed particulars of his interest;
- (b) any person who has duly made an objection to the order and at the time of making it or thereafter has sent to the acquiring authority such a request as aforesaid; and
- (c) such other persons, if any, as the Secretary of State may specify, whether individually or as members of a class of persons.

SCH. 3

6. The Secretary of State may by regulations make provision for enabling proceedings required to be taken for the purposes of paragraphs 1, 2 and 4 above in relation to an order authorising a compulsory acquisition of land in an area proposed to be designated as the site of a new town by an order a draft of which has been published in accordance with Schedule 1 to this Act, to be taken, so far as may be practicable, contemporaneously with the proceedings on the last-mentioned order.

PART II

*Special provisions applying to acquisitions
by local highway authorities*

7.—(1) Subject to this paragraph, where a compulsory purchase order under section 8(1) of this Act is submitted to the Secretary of State, the notice required to be published under paragraph 2 above shall be published not only as mentioned in that paragraph but also by being exhibited at such places in the locality to which the order relates as appear to the acquiring authority to be suitable for bringing it to the attention of all persons concerned.

(2) Sub-paragraph (1) above shall not apply in any case where the Secretary of State is satisfied that the land to which the compulsory purchase order relates is required for the purpose of a project—

- (a) which was adequately set out in a statement prepared for the purposes of an order under section 1 of this Act which has been made, or
- (b) which has been the subject of an inquiry for the purposes of section 1 of the Trunk Roads Act 1946 or section 14(1) of the Special Roads Act 1949, or of either of the following enactments no longer in force, that is to say section 1(3) of the Trunk Roads Act 1936 and section 4 of the Trunk Roads Act 1946.

1946 c. 30.
1949 c. 32.

1936 c. 5
(1 Edw. 8 &
1 Geo. 6).

8. Where there is submitted to the Secretary of State a compulsory purchase order under section 8(1) of this Act authorising the acquisition of any land forming a frontage to, or abutting on or adjacent to, a road, and the Secretary of State is satisfied as respects the whole or any part of the land—

- (a) that the acquisition would be requisite only for the purpose of controlling development, and
- (b) that every owner has entered, or is willing to enter, into such an agreement with the local highway authority or the Secretary of State as is provided for by section 6(4) of this Act, or is bound by such an agreement, and that the agreement or proposed agreement is satisfactory for the said purpose,

the order shall not be confirmed so as to authorise the acquisition of any part of the land as to which the Secretary of State is satisfied as aforesaid.

PART III

SCH. 3

Acquisitions by Secretary of State

9.—(1) A compulsory purchase order made under section 8(2) of this Act by the Secretary of State—

- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
- (b) subject to that, shall be in such form as the Secretary of State may determine.

(2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.

10. Where the Secretary of State proposes to make such an order, he shall prepare a draft thereof, and as soon as may be thereafter shall—

- (a) publish in the manner mentioned in paragraph 2 above, and
- (b) serve on every person appearing from the valuation roll to have an interest in any of the land to which the draft relates and on any other persons on whom he may think it proper to effect such service,

a notice, in such form as he may determine, similar, with requisite adaptations, to the notice mentioned in paragraph 2(1) above.

11. Paragraphs 3, 4, 5, 7 and 8 above shall have effect in relation to such an order—

- (a) with the substitution, for references to the acquiring authority, of references to the Secretary of State ;
- (b) with the substitution, for references to an order as submitted and to the confirmation of an order, of references respectively to an order as prepared in draft and to the making of an order ;
- (c) with the omission, in paragraph 4(5), of the reference to the acquiring authority ;
- (d) with the substitution, for the references to a compulsory purchase order under section 8(1) of this Act and to the notice required by paragraph 2 above, of references respectively to a compulsory purchase order under section 8(2) of this Act and to the notice required by paragraph 10 above ; and
- (e) with the substitution, in paragraph 8, of the words “ the Secretary of State proposes to make ” for the words “ there is submitted to the Secretary of State ”.

SCH. 3

PART IV

Special provisions as to certain descriptions of land

12. In so far as a compulsory purchase order authorises the acquisition of land which is the property of a local authority, or of land belonging to the National Trust which is held by the Trust inalienably, the order shall be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or the National Trust, as the case may be, and has not been withdrawn.

13.—(1) In so far as a compulsory purchase order authorises the acquisition of any land forming part of any common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree), and being equally advantageous to the persons (if any) entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land acquired was vested, and subject to the like rights, trusts and incidents as attached to the land acquired ; or
- (b) that the land is required for the widening of an existing highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

(2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall give public notice of his intention so to do, and—

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

the Secretary of State may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who made the inquiry, give the certificate.

(3) As soon as may be after the giving of a certificate under this paragraph the acquiring authority shall publish in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land designated by the order is situated, a notice in the prescribed form stating that the certificate has been given.

PART V

SCH. 3

Validity and date of operation of compulsory purchase orders and certificates

14. If any person aggrieved by a compulsory purchase order, or by a certificate under paragraph 13 above, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session; and on any such application the Court—

- (a) may by interim order suspend the operation of the order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the order or any provision contained therein, or the certificate, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

15. Subject to the provisions of paragraph 14 above, a compulsory purchase order or a certificate under paragraph 13 above shall not, either before or after it has been made or confirmed or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the said paragraph 14.

16. This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section 2(4) or 6 of the Statutory Orders (Special Procedure) Act 1945 but, except as 1945 c. 18 (9 & 10 Geo. 6). said, shall have effect in relation to a compulsory purchase order to which that Act applies as if in paragraph 14 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the said Act of 1945, and as if in paragraph 15 the words from “and shall become operative” to the end were omitted.

Section 10.

SCHEDULE 4

PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITION
OF STATUTORY UNDERTAKERS' OPERATIONAL LAND

PART I

*Acquisitions by development corporations and local
highway authorities*

1. An application by a development corporation or local highway authority for the purposes of section 10(1)(a) of this Act shall be in such form as may be prescribed, and shall describe by reference to a map the land to which the application relates.

2. As soon as may be after submitting the application to the Secretary of State and the appropriate Minister the acquiring authority shall serve on every owner, lessee and occupier of any land to which the application relates a notice in the prescribed form describing the land, stating that an application under the said section 10(1)(a) has been submitted in relation to the land and is about to be considered by the Secretary of State and the appropriate Minister, naming a place where a copy of the application and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the service of the notice) within which, and the manner in which, objections to the application may be made.

3.—(1) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State and the appropriate Minister may, if they think fit, make a compulsory purchase order in accordance with the application, with or without modification, but shall not, unless all persons interested consent, make the order with any modification which would extend it to any land to which the application did not relate.

(2) If any objection is duly made by any of the persons on whom notices are required to be served and is not withdrawn, the Secretary of State and the appropriate Minister shall, before making an order on the application, consider the objection and shall, if either the objector or the acquiring authority so desire, cause an inquiry to be held, and may then, if they think fit, make an order as aforesaid.

(3) An objection shall not be deemed for the purposes of section 10 of this Act or this Schedule to be duly made unless—

- (a) it is made within the time and in the manner specified in the notice in that behalf, and
- (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

4. A compulsory purchase order made on such an application shall be in such form as the Secretary of State and the appropriate

Minister may determine, and shall describe by reference to a map the land to which the order relates. **SCH. 4**

5. As soon as may be after a compulsory purchase order has been made on such an application the acquiring authority shall serve on every owner, lessee and occupier of any land to which the order relates a notice in the prescribed form stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at any reasonable hour.

PART II

Acquisitions by Secretary of State and appropriate Minister

6. A compulsory purchase order made by the Secretary of State and the appropriate Minister in pursuance of section 10(1)(b) of this Act shall be in such form as they may determine, and shall describe by reference to a map the land to which the order relates.

7. Where the Secretary of State and the appropriate Minister propose to make such an order they shall prepare a draft thereof, and shall as soon as may be thereafter serve on every owner, lessee and occupier of any land to which the draft relates a notice in such form as they may determine describing the land, stating that the making of the order is proposed, naming a place where a copy of the draft and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the service of the notice) within which, and the manner in which, objections to the proposal may be made.

8. Paragraphs 3 and 5 of this Schedule shall have effect in relation to such an order—

- (a) with the substitution, for references to an application and to the making of a compulsory purchase order thereon, of references to such an order as prepared in draft and to the making of such an order, and
- (b) with the omission of the references in paragraph 3(2) to the acquiring authority.

PART III

Modification of Schedule 3, Part V in relation to compulsory purchase orders made in pursuance of s.10.

9. Part V of Schedule 3 to this Act shall have effect in relation to a compulsory purchase order made in pursuance of section 10(1) of this Act with the substitution, for the references to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of that Schedule in that behalf, of references to the date on which the service of notices required by paragraph 5 above is completed.

Sections 13, 26.

SCHEDULE 5

ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS

PART I

Measure of compensation

1.—(1) Where statutory undertakers are entitled to compensation as mentioned in section 13 or section 26(7) of this Act, the amount of the compensation shall (subject to paragraph 2 below) be an amount calculated in accordance with the following provisions of this paragraph.

(2) The said amount, subject to sub-paragraph (3) below, shall be the aggregate of the following amounts, that is to say—

(a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation ;

(b) whichever of the following is applicable, namely—

(i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment, or

(ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation ;

(c) where the compensation is under section 26(7) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

(3) Where any such adjustment as is mentioned in sub-paragraph (2)(a) above is made, the aggregate amount mentioned in that sub-paragraph shall be reduced by such amount (if any) as appears to the tribunal to be appropriate to offset—

(a) the estimated value of any property (whether moveable or heritable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so

far as the value of the property has not been taken into account under sub-paragraph (2)(c) above, and

SCH. 5

- (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under sub-paragraph (2)(b) above and is directly attributable to the adjustment,

and by any further amount which appears to the tribunal to be appropriate having regard to any increase in the capital value of heritable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under head (b) of this sub-paragraph.

(4) References in this paragraph to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.

(5) In this paragraph "proceeding giving rise to compensation" means the particular action (that is to say, the acquisition, the extinguishment of a right or the imposition of a requirement) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken.

Exclusion of paragraph 1 at option of statutory undertakers

2.—(1) Where statutory undertakers are entitled to compensation in respect of a compulsory acquisition, the statutory undertakers may by notice in writing under this paragraph elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 12 of the Land Compensation (Scotland) Act 1963) which would be applicable apart from paragraph 1 above; and if the undertakers so elect the compensation shall be ascertained accordingly. 1963 c. 51.

(2) An election under this paragraph may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of any part of that land.

(3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

Procedure for assessing compensation where paragraph 1 applies

3. Where the amount of any such compensation as is mentioned in paragraph 1(1) above falls to be ascertained in accordance with the provisions of the said paragraph 1, the compensation shall, in default of agreement, be assessed by the arbitration of the tribunal.

SCH. 5 4. In this Part of this Schedule, "the tribunal" means the tribunal constituted in accordance with the provisions of Part II of this Schedule.

PART II

Tribunal for assessment of compensation

5.—(1) The tribunal for the assessment of compensation referred to in Part I of this Schedule shall consist of four persons, namely—

- (a) an advocate or solicitor of not less than seven years' standing appointed by the Lord President of the Court of Session to act as chairman ;
- (b) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively ; and
- (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members of a panel appointed by appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.

(2) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.

(3) For the purposes of any proceedings arising before the tribunal the provisions of sections 3, 5 and 39 of the Land Compensation (Scotland) Act 1963 shall apply as they apply to proceedings on a question referred to the official arbiter under section 2 of that Act, but with the substitution, in sections 5 and 39 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

1963 c. 51.

Section 12.

SCHEDULE 6

MODIFICATIONS OF ENACTMENTS FOR PURPOSES OF THIS ACT

PART I

The Lands Clauses Acts

1.—(1) The following sections of the Lands Clauses Consolidation (Scotland) Act 1845 (hereafter in this Schedule referred to as "the Act of 1845") shall be excepted from incorporation with this Act, that is to say—

1845 c. 19.

- (a) sections 120 to 124 (sale of superfluous land) ;
- (b) section 127 (promoters to make good deficiencies in land tax and rates) ; and
- (c) sections 142 and 143 (access to the special Act).

(2) In construing the Lands Clauses Acts and the Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act— **SCH. 6**
1845 c. 33.

- (a) this Act or, in relation to a compulsory acquisition, this Act and the compulsory purchase order, shall be deemed to be the special Act ;**
- (b) in relation to a compulsory acquisition, references to the promoters of the undertaking or to the railway company shall be construed as references to the acquiring authority ;**
- (c) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by this Act ;**
- (d) in relation to any erection, construction or carrying out of any building or works so authorised, references in section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (compensation for injurious affection) to the railway company shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out ; and**
- (e) references to the execution of the works or to the construction of the railway shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of the Secretary of State on land acquired by him under section 8 of this Act, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.**

2. For the purposes of section 116 of the Act of 1845 (powers of compulsory purchase not to be exercised after the expiration of the prescribed period) the prescribed period shall, in relation to any acquisition, be three years from the coming into operation of the compulsory purchase order.

3. The acquiring authority shall, without prejudice to any power in that behalf exercisable by them apart from this paragraph, be entitled, notwithstanding anything in section 17 of the Act of 1845 or in any other provision of the Lands Clauses Acts, to acquire one or some of two or more interests subsisting in the land without acquiring the other interest or interests subsisting therein.

4.—(1) If the acquiring authority have, in respect of any of the land, served notice to treat on every owner of that land, they may at any time thereafter serve a notice—

- (a) on every occupier of any of that land, and**
- (b) on every person (other than such an occupier) who, having been served with a notice to treat in respect of that land, has requested the acquiring authority in writing to serve him with any notice under this sub-paragraph and has furnished them with an address for service thereof,**

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SCH. 6 describing the land to which the notice relates and stating their intention to enter on and take possession thereof at the expiration of such period (not being less than 28 days from the date on which the notice is served) as may be specified in the notice.

(2) At the expiration of the period specified in such a notice (or, where two or more such notices are required, and the periods specified in the several notices do not expire at the same time, of the last of those periods to expire), or at any time thereafter, the acquiring authority may enter on and take possession of the land to which the notice or notices relate without previous consent or compliance with sections 83 to 88 of the Act of 1845, but subject to payment of the like compensation for the land of which possession is taken, and interest on the compensation agreed or awarded, as they would have been required to pay if those provisions had been complied with.

5.—(1) The provisions of this paragraph shall have effect in substitution for the provisions of section 90 of the Act of 1845.

(2) No person shall be required to sell a part only—

(a) of any house, building or manufactory, or

(b) of a park or garden belonging to a house,

if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the arbiter determines that—

(i) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory, or

(ii) in the case of a park or garden, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house,

and, if he so determines, he shall award compensation in respect of any loss due to the severance of the part proposed to be acquired, in addition to its value; and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

6. Notices required to be served by the acquiring authority may, notwithstanding anything in section 18 of the Act of 1845, be served and addressed in the manner specified in section 45 of this Act in relation to notices required to be served under this Act.

PART II

The Land Compensation (Scotland) Act 1963

1963 c. 51.

7. The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly

concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

SCH. 6

8. The power conferred by section 39 of the Land Compensation (Scotland) Act 1963 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 section 11 of this Act. 1963 c. 51.

SCHEDULE 7

Section 16.

FURTHER PROVISIONS WITH RESPECT TO ORDERS PROVIDING FOR EXPEDITED COMPLETION

Introductory

1. The provisions of this Schedule shall have effect with respect to any compulsory purchase order which includes a direction, under section 15(1) of this Act, that the provisions of this Act relating to expedited completion shall apply to the order so far as it relates to land specified in the direction; and in this Schedule "the relevant land" means the land so specified.

Particulars to be included in notice of confirmation of order

2. The notice of the confirmation or making of the order required by this Act to be published—

- (a) shall refer to the provisions as to entry and vesting contained in section 16(6) of this Act, and
- (b) shall include a notification to the effect that every person entitled to claim compensation in respect of any of the relevant land or any interest in such land is invited to give information to the acquiring authority, in the prescribed form, with respect to his name and address and the land and interest in question.

Certificate of acquiring authority for purpose of determining date of vesting

3. For the purposes of section 16 of this Act, a certificate given by the acquiring authority stating that the service of notices on occupiers required by subsection (5) of that section was completed on a date specified in the certificate shall be conclusive evidence of the fact so stated.

Exclusion of power of entry conferred by Schedule 6 to this Act

4. Paragraph 4 of Schedule 6 to this Act shall not have effect in relation to the order.

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1963 c. 51.

Restriction on withdrawal of constructive notice to treat

5. The power conferred by section 39 of the Land Compensation (Scotland) Act 1963 or by that section as applied by paragraph 5(3) of Schedule 5 to this Act to withdraw a notice to treat shall, in the case of a notice to treat which is deemed to have been served by virtue of section 16(2) of this Act, not be exercisable—

- (a) in respect of the interest of an occupier, at any time after the service on that occupier of the notice required to be served by virtue of section 16(5) of this Act, and
- (b) in respect of any other interest, at any time after that interest has vested in the acquiring authority by virtue of section 16(6) of this Act.

Special provisions with respect to parts of buildings, etc.

6.—(1) Where a part only of a house, building or manufactory, or of a park or garden belonging to a house, is comprised in the relevant land, then, if notice in that behalf is given to the acquiring authority in accordance with the provisions of sub-paragraph (2) below, no notice to treat shall be deemed by virtue of section 16(2) of this Act to have been served in respect of any interest in the said part; and, as from the giving of the first-mentioned notice, the order shall have effect in relation to that part as if it had not been comprised in the relevant land.

(2) A notice under sub-paragraph (1) above in respect of any premises consisting of part of a house, building, manufactory, park or garden may be given to the acquiring authority by any person having an interest in those premises, but shall not have effect if given before the order has come into operation or after the acquiring authority have executed in respect of those premises a declaration under section 16(3) of this Act.

7. Neither paragraph 5 of Schedule 6 to this Act (which makes special provision in substitution for section 90 of the Act of 1845, with respect to the compulsory acquisition of parts of buildings) nor the said section 90 shall have effect in relation to the order.

Compensation not to be affected by provision for expedited completion

8. Where any of the relevant land has become vested in the acquiring authority by virtue of section 16(6) of this Act, the authority shall be liable to pay the like compensation for the land, and the like interest on the compensation agreed or awarded, as they would have been required to pay if sections 83 to 88 of the Act of 1845, and the provisions of that Act compliance with which would have been requisite in order to render exercisable by them the powers referred to in the said section 16(6), had been complied with.

Exclusion of provisions of Act of 1845 relating to absent parties and interests omitted to be purchased

9.—(1) Where a notice to treat is deemed by virtue of section 16(2) of this Act to have been served in respect of any interest, the provisions of the Act of 1845 mentioned in sub-paragraph (2) below

shall, notwithstanding section 12(1) of this Act, not have effect in relation to the acquisition of that interest.

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(2) The said provisions are sections 56 to 60 and 63 to 66 (mode of ascertaining compensation to absent parties) and sections 117 to 119 (interests which have by mistake been omitted to be purchased).

Charges and leases affecting relevant land and other land

10.—(1) Where land consisting or forming part of the relevant land is, together with other land not comprised in the relevant land, burdened with a charge, such portion of the charge as may be apportioned under section 109 of the Act of 1845 to the first-mentioned land shall, subject to sub-paragraph (3) below, be treated as having been extinguished by virtue of section 16(6) of this Act on the vesting of that land in the acquiring authority under that subsection.

(2) Where by virtue of sub-paragraph (1) above a portion of a charge is treated as having been extinguished, sections 108 to 111 of the Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.

(3) If, in the circumstances described in sub-paragraph (1) above, the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections 108 to 111 shall have effect as if, at the time of the vesting of the relevant land in the acquiring authority under section 16(6) of this Act, the person entitled to the charge had discharged that land from the charge on the condition mentioned in section 109 of the Act of 1845; and, in that case, no part of the charge shall be treated as having been extinguished by virtue of the said section 16(6) so far as regards the remaining part of the land burdened therewith.

(4) Any question as to the apportionment mentioned in section 109 of the Act of 1845 shall be referred to and determined by an official arbiter in accordance with section 2 of the Land Compensation (Scotland) Act 1963.

1963 c. 51.

11. Where land consisting or forming part of the relevant land is, together with other land not comprised in the relevant land, comprised in a lease for a term of years unexpired, section 112 of the Act of 1845 shall have effect in relation thereto with the substitution, for references therein to the time of the apportionment of rent therein mentioned, of references to the time of the vesting in the acquiring authority of the first-mentioned land under section 16(6) of this Act.

Miscellaneous

12. Where, any of the relevant land has become vested in the acquiring authority under section 16(6) of this Act, any person who, in consequence thereof, is relieved from any liability (whether in respect of a charge, rent under a lease, interest due on any heritable security or any other matter) and makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he

SCH. 7 made the payment he did not know of the facts which constitute the cause of his being so relieved, or of some one or more of those facts, be entitled to recover the sum paid from the person to whom it was paid.

1895 c. 16.

13. Where the acquiring authority have expedite a notice of title in respect of land by virtue of section 16(6) of this Act and the compensation payable in respect of the interests in the land is not finally ascertained at the time when the notice of title is presented for recording, then, if the notice of title is accompanied by a certificate by the authority to that effect, it may lawfully be recorded in the Register of Sasines notwithstanding that it is not stamped; and section 12 of the Finance Act 1895 (which provides for the collection of stamp duty, where property is vested by way of sale by virtue of an Act, within three months of the date of vesting) shall have effect, with respect to the vesting of those interests, with the substitution, for the reference therein to the date of vesting, of a reference to the date on which the compensation has been finally ascertained.

14. Where, after land has become vested in the acquiring authority under section 16(6) of this Act, a person retains possession of any writ relating to the land, he shall be deemed to have given to the authority an undertaking to produce that writ to the authority on all necessary occasions.

15.—(1) The time within which a question of disputed compensation, arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of section 16(2) of this Act, may be referred to arbitration shall be the period of six years from the date at which the person claiming compensation, or a person from whom he derives title, first knew, or could reasonably be expected to have known, of the vesting of the interest by virtue of section 16(6) of this Act.

(2) In reckoning the period of six years referred to in sub-paragraph (1) above, no account shall be taken of any period during which the person claiming compensation, or the person from whom he derives title, was in minority or less age or was under legal disability.

Sections 23,
28, 30.

SCHEDULE 8

PROCEDURE FOR DEALING WITH OBJECTIONS TO ORDERS UNDER SS. 23, 28 AND 30

- 1.—(1) In this Schedule “the relevant Minister” means—
- (a) in relation to an order under section 23 of this Act, the Secretary of State;
 - (b) in relation to an order under section 28 of this Act, the Secretary of State and the appropriate Minister;
 - (c) in relation to an order under section 30 of this Act, the appropriate Minister.

(2) In this Schedule any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.

SCH. 8

2. Unless the relevant Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the relevant Minister shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

3. In so far as the relevant Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, the relevant Minister may treat the objection as irrelevant for the purpose of making a final decision.

4. If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the relevant Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the relevant Minister may make a final decision without further investigation as to those matters.

5. Subject to paragraphs 3 and 4 above, the relevant Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the relevant Minister; and if the objector avails himself of that opportunity, the relevant Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, development corporation or other person, if any, on whose representation the order is proposed to be made, and to any other persons to whom it appears to the relevant Minister to be expedient to afford such an opportunity.

6. Notwithstanding anything in the foregoing provisions of this Schedule, if it appears to the relevant Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

SCHEDULE 9

Section 48.

SAVING AND TRANSITIONAL PROVISIONS

1. In so far as any order, regulation, certificate, declaration or other instrument made, given or executed under any enactment repealed by this Act, or any other thing done under or by virtue

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SCH. 9 of any such enactment, could have been made, given, executed or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by the repeals effected by section 48 of this Act but, subject to paragraph 3 below, shall have effect as if made, given, executed or done under or by virtue of that corresponding provision.

2. Without prejudice to paragraph 1 above, any provision of this Act relating to anything done or required or authorised to be done under, or by reference to, that provision or any other provision of this Act shall, subject to paragraph 3 below, have effect as if any reference to that provision or that other provision, as the case may be, included a reference to the corresponding provision of the enactments repealed by this Act.

1946 c. 68.
1965 c. 59.

3. Notwithstanding anything in paragraph 1 or 2 above, any advance made to a development corporation before the commencement of this Act under section 12(1) of the New Towns Act 1946 shall be regarded for the purpose of section 43 of the New Towns Act 1965 as having been made under the said section 12(1) and not under section 37(1) (the corresponding provision) of this Act.

4. Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.

5. Where any Act (whether passed before, or in the same Session as, this Act) or any document refers, either expressly or by implication, to an enactment (including an enactment as applied by the New Towns Act 1946) repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

6.—(1) Notwithstanding section 8(3) of this Act, paragraph 12 of Schedule 3 to this Act shall not apply to a compulsory purchase order under section 8 of this Act in the case of which any of the following things is done before the commencement of this Act, that is to say—

- (a) the order is submitted to the Secretary of State under Part I of Schedule 3 to this Act or an application for the order is submitted to the Secretary of State and the appropriate Minister under Part I of Schedule 4 to this Act;
- (b) a notice relating to a draft of the order is published under Part III of the said Schedule 3 or served under Part II of the said Schedule 4.

(2) Notwithstanding the said section 8(3), paragraph 13 of Schedule 3 to this Act shall not apply to a compulsory purchase order under section 8(2) of this Act in the case of which either of the things mentioned in sub-paragraph (1)(b) above is done before the commencement of this Act.

1945 c. 33.
1964 c. 25.

7. Without prejudice to paragraph 5 above, the reference to section 51 of the Town and Country Planning (Scotland) Act 1945 as applied by the New Towns Act 1946 contained in Part II of Schedule 3 to the War Damage Act 1964 (which lists enactments

repealed as from 1st October 1968) shall be construed as a reference to section 15(2) of this Act. SCH. 9

8. Nothing in this Schedule shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals). 1889 c. 63.

SCHEDULE 10

CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

Section 48.

Rivers (Prevention of Pollution) (Scotland) Act 1951

In section 35(1), in the definition of "local authority", for the words "Act, 1946" there shall be substituted the words "(Scotland) Act 1968", and for the words from "subsection (2)" to "Act, 1897," there shall be substituted the words "section 34(1) of that Act entitled to exercise any powers". 1951 c. 66.

New Towns Act 1965

In section 43(b), for the words from "whether" to the end of the paragraph, there shall be substituted the words "before the commencement of the New Towns (Scotland) Act 1968 under section 12(1) of the New Towns Act 1946 in its application to Scotland (to which section 37(1) of the said Act of 1968 corresponds), and after the commencement of the said Act of 1968 under the said section 37(1); and". 1965 c. 59.
1946 c. 68.

SCHEDULE 11

REPEALS

Section 48.

| Chapter | Short Title | Extent of Repeal |
|------------------------|--|---|
| 8 & 9 Geo. 6. c. 33. | The Town and Country Planning (Scotland) Act 1945. | The whole Act as applied by the New Towns Act 1946. |
| 9 & 10 Geo. 6. c. 18. | The Statutory Orders (Special Procedure) Act 1945. | In Schedule 2, the entries relating to the Town and Country Planning (Scotland) Act 1945. |
| 9 & 10 Geo. 6. c. 68. | The New Towns Act 1946. | The whole Act. |
| 10 & 11 Geo. 6. c. 53. | The Town and Country Planning (Scotland) Act 1947. | Section 43. In Schedule 8, the entry relating to the New Towns Act 1946. |
| 12 & 13 Geo. 6. c. 59. | The Licensing Act 1949. | Section 4(1). |
| 6 & 7 Eliz. 2. c. 12. | The New Towns Act 1958. | The whole Act. |
| 7 & 8 Eliz. 2. c. 62. | The New Towns Act 1959. | The whole Act, except— in section 14(1), the words from the beginning to "the New Towns Act 1959"; paragraph 1(10) of Schedule 1. |
| 1964 c. 8. | The New Towns Act 1964. | The whole Act. |
| 1964 c. 68. | The New Towns (No. 2) Act 1964. | The whole Act. |
| 1966 c. 44. | The New Towns Act 1966. | Section 3. |

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Education Act 1968

1968 CHAPTER 17

An Act to amend the law as to the effect of and procedure for making changes in the character, size or situation of county schools or voluntary schools to enable special age limits to be adopted for existing as well as for new schools, and to make certain other amendments as to the approval or provision of school premises; and for purposes connected therewith. [10th April 1968]

BE IT ENACTED by the Queen'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:—

Changes in character, size or situation of schools. 1944 c. 31.

1.—(1) For purposes of the Education Acts 1944 to 1967 and any other enactment relating to the duties of a local education authority, references in whatever terms to discontinuing a school (and, in particular, those in section 13 of the Education Act 1944 to a local authority ceasing to maintain a county school or a voluntary school), or to establishing a new school, shall not be read as applying by reason of any change which is made to an existing school—

- (a) by education beginning or ceasing to be provided for pupils above or below a particular age; or
- (b) by education beginning or ceasing to be provided for girls as well as boys, or for boys as well as girls; or
- (c) by any enlargement or alteration of the school premises or transfer of the school to a new site;

and the school existing before an event mentioned in paragraph (a), (b) or (c) above shall be regarded as continuing despite that event and as being the same school before and after that event (unless it is to be regarded for other reasons as discontinued).

(2) In section 13 of the Education Act 1944 (which regulates, 1944 c. 31. among other things, the procedure to be followed where a local education authority intend to establish, maintain or cease to maintain a school as mentioned in subsection (1), or where persons propose that a school should be maintained as a voluntary school as mentioned in subsection (2)) subsections (1) and (2) shall be amended as follows:—

(a) in subsection (1) there shall be inserted after paragraph (c) the words “ or where a local education authority intend to make any significant change in the character, or significant enlargement of the premises, of a county school ” ; and

(b) in subsection (2) there shall be inserted after the words “ as a voluntary school ” the words “ or where the managers or governors of a school maintained by a local education authority as a voluntary school intend to make any significant change in the character, or significant enlargement of the premises, of the school ” ;

and at the end of that section there shall be added as new subsections (9) and (10)—

“ (9) Where proposals are made under this section for the enlargement of school premises, subsections (6) and (7) shall apply, with the necessary adaptations, as they apply in the case of proposals for the establishment of a new school (any reference to the persons by whom the proposed school is to be established being read as a reference to the managers or governors).

(10) References in this section to a change in the character of a school include in particular changes in character resulting from education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as for girls, or for girls as well as for boys, or from the making or alteration of arrangements for the admission of pupils by reference to ability or aptitude ”.

(3) In the enactments mentioned in Schedule 1 to this Act there shall be made the amendments provided for by that Schedule, being amendments arising out of or related to the provisions in subsections (1) and (2) above ; and the enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

(4) Subsection (1) above shall be deemed to have had effect since the beginning of April 1945 in so far as the effect is—

(a) that a school is to be or have been regarded as being the same school before and after any such event as is there mentioned ; or

(b) that anything may be or have been lawfully done without proposals being approved under section 13 of the Education Act 1944.

1944 c. 31.

(5) Subject to subsection (4) above, this section shall not apply in relation to things proposed to be done before the end of the summer term 1968, nor in relation to proposals approved before then under section 13 of the Education Act 1944 or to anything done or to be done in pursuance of any such proposals; and for this purpose "summer term" means, in the case of any school, the term ending last before the month of September.

Schools with special age limits.
1964 c. 82.

2. Section 1 of the Education Act 1964 (which enables new county or voluntary schools to be established to provide both primary and secondary education) shall apply where it is proposed that an existing school maintained or to be maintained by a local education authority should provide both primary and secondary education, and accordingly in subsection (1) of that section—

(a) for the words from "Where a local education authority intend to establish a new county school" to "for that purpose" there shall be substituted the words "Where proposals with respect to a school maintained or to be maintained by a local education authority are submitted"; and

(b) for the word "established" in paragraph (b) there shall be substituted the words "a school".

Approval or provision of school premises (miscellaneous amendments).

3.—(1) In section 13 of the Education Act 1944—

(a) in subsection (6) (which requires submission to the Secretary of State of specifications and plans of the school premises of a proposed new county or voluntary school) after the words "specifications and plans of the school premises" there shall be inserted the words "if the premises are new premises (that is to say, if the premises do not comprise buildings used for a school at the time when the proposals are approved) or if the Secretary of State so directs"; and

(b) in subsection (7) (which requires those concerned to give effect to proposals for a new school after the proposals, specifications and plans have been approved under the section) after the words "under this section" there shall be inserted the words "or, in a case where specifications and plans are not required, when the proposals have been so approved and the Secretary of State has notified the authority or persons by whom the proposed school is to be established that specifications and plans will not be required", and after the

words " so approved " there shall be inserted the words " (if any) ".

(2) In section 7(2) of the Education (Miscellaneous Provisions) Act 1948 (which enables the prescribed standards for school premises to be relaxed by the Secretary of State in approving specifications and plans of a new school under section 13(6) of the Education Act 1944, and does so by reference to the proviso to section 10(2) of that Act as set out in subsection (1) of the said section 7) after paragraph (b) there shall be inserted the words " or if the Secretary of State is satisfied, on the submission to him of the specifications and plans of the school premises where the premises are to comprise the existing site or buildings of another school, as to the matters mentioned in paragraph (a) set out in the preceding subsection ". 1948 c. 40. 1944 c. 31.

(3) In the proviso to section 10(2) of the Education Act 1944, as set out in section 7(1) of the Education (Miscellaneous Provisions) Act 1948 (which proviso enables the Secretary of State in certain circumstances to permit school premises not to conform to the prescribed standards) for the words " having regard to shortage of labour or materials " in paragraph (c) there shall be substituted the words " having regard to the need to control public expenditure in the interests of the national economy ".

(4) If upon representations made to him by a local education authority the Secretary of State is satisfied—

(a) that the managers or governors of a voluntary school propose to make a significant enlargement of the school premises or alterations to those premises, and that it is desirable for them to do so for the better provision of primary or secondary education at the premises, or for securing that there is available for the area of the authority a sufficiency of suitable primary or secondary schools, or for both those reasons ; and

(b) that, having regard to the need to control public expenditure in the interests of the national economy, it is not reasonably practicable to effect the enlargement or alterations by providing permanent accommodation ;

then, subject to proposals for any significant enlargement being approved under section 13 of the Education Act 1944, the Secretary of State may authorise the authority to provide, or assist in providing, temporary accommodation in accordance with arrangements approved by him ; and Schedule 1 to the Education Act 1946 (which relates to the duties of the local education authority and the managers or governors with regard to the provision of sites and buildings for voluntary schools) shall not apply in relation to temporary accommodation provided by virtue of this subsection. 1946 c. 50.

Expenses.

4. There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums so payable under the Education Acts 1944 to 1967.

Text of certain provisions as amended by this Act.

1944 c. 31.

1946 c. 50.

1948 c. 40.

5.—(1) In accordance with the provisions of this Act (apart from the transitional provisions in section 1(5)), the following sections, namely,—

section 13 of the Education Act 1944 ;

section 1 of the Education Act 1946 ; and

section 7 of the Education (Miscellaneous Provisions) Act 1948 ;

are to have effect as set out in Schedule 3 to this Act with the amendments made by this Act, by the Secretary of State for Education and Science Order 1964 and by the provisions listed in subsection (2) below, but without prejudice to the operation of any enactment affecting the operation of those sections and not so listed.

(2) The provisions above referred to, as regards provisions by which section 13 of the Education Act 1944 is amended, are—

The Education Act 1946, section 14 and Part II of Schedule 2 ; and

1953 c. 33.

The Education (Miscellaneous Provisions) Act 1953, section 16, and section 17 and Schedule 1 ;

and, as regards provisions by which section 1 of the Education Act 1946 is amended, are—

The Education (Miscellaneous Provisions) Act 1953, section 3 ; and

1967 c. 3.

The Education Act 1967, section 2.

Short title, citation, construction and extent.

6.—(1) This Act may be cited as the Education Act 1968 and this Act and the Education Acts 1944 to 1967 may be cited together as the Education Acts 1944 to 1968.

(2) This Act shall be construed as one with the Education Acts 1944 to 1967.

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

SCHEDULES

SCHEDULE 1

Section 1.

ADDITIONAL AMENDMENTS AS TO CHANGES IN CHARACTER, SIZE,
OR SITUATION OF SCHOOLS

1. In section 16(1) of the Education Act 1944 there shall be omitted the words "and any transfer so authorised shall not be deemed, for the purposes of this Act, to constitute the discontinuance of the school or the establishment of a new school"; and in their place there shall be inserted the words "and a voluntary school shall not be transferred to a new site without the authority of an order under this subsection". ^{1944 c. 31.}

2. In section 17 of the Education Act 1944 there shall be added as a new subsection (6)—

"(6) Where proposals for a significant change in the character of a voluntary school are approved under section 13 of this Act, then, without prejudice to the power to vary orders conferred by section 111, the Secretary of State may by order make such variations of the articles of government (if the school is a secondary school), or such modifications authorised by subsection (4) of this section in the provisions of a trust deed, as appear to him to be required in consequence of the proposed change in the character of the school; and so much of subsection (5) of this section as relates to the making of representations with respect to orders under this section shall not apply to an order made in pursuance only of the power conferred by this subsection."

3. For section 67(4) of the Education Act 1944 there shall be substituted—

"(4) If in the case of a county or voluntary school a question arises whether a change in the character of the school or enlargement of the school premises would be a significant change or enlargement, that question shall be determined by the Secretary of State."

4.—(1) Section 102 (payment of maintenance contributions by the Secretary of State) of the Education Act 1944 shall be amended—

- (a) by inserting immediately before the proviso the words "and may pay the managers or governors of any aided school or special agreement school maintenance contributions not exceeding four-fifths of any sums expended by them on the provision of a site or of school buildings in pursuance of proposals approved under section 13 of this Act for a significant enlargement of the school premises"; and
- (b) by adding at the end of the proviso "nor shall a maintenance contribution be payable under this section in respect of any expenditure incurred by the managers or governors of a special agreement school in pursuance of proposals for a significant enlargement of the school premises, being proposals to which the special agreement for the school relates".

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1944 c. 31.

(2) In section 105(2) of the Education Act 1944 (which lists in paragraphs (a) to (d) the initial expenses qualifying, in the case of an aided or special agreement school, for loans under the section) for paragraph (c) there shall be substituted—

“(c) (i) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises, being expenses in respect of which a maintenance contribution may be paid ;

(ii) expenses to be incurred in providing school buildings on a site to which the school is to be transferred under the authority of an order under section 16(1) of this Act ;

(iii) expenses to be incurred in providing a site or school buildings for a new school which by virtue of an order under section 16(2) of this Act is deemed to be in substitution for a discontinued school or schools”.

5. In section 114(1) of the Education Act 1944 the existing definition of “alterations” shall be omitted and, at the places required by the alphabetical order in section 114(1), there shall be inserted the following definitions:—

(a) “alterations”, in relation to any school premises, includes improvements, extensions and additions, but does not include any significant enlargement of the school premises ;

(b) “enlargement”, in relation to any school premises, includes any modification of the existing premises which has the effect of increasing the number of pupils for whom accommodation can be provided, and “enlarge” shall be construed accordingly ;

(c) “significant”, in relation to a change in the character of a school or an enlargement of school premises, implies that there is a substantial change in the function or size of the school.

1946 c. 50.

6. In section 1(1) of the Education Act 1946 (of which the text, as amended, is set out in Schedule 3 to this Act) for paragraph (a) there shall be substituted—

“(a) that there should be a significant enlargement of the school premises ; and”.

1948 c. 50.

7. In section 7 of the Education (Miscellaneous Provisions) Act 1948 (of which the text, as amended, is set out in Schedule 3 to this Act), after subsection (2), there shall be inserted as a new subsection (2A)—

“(2A) Notwithstanding the provisions of section 13 of the principal Act as to conformity to the prescribed standards, the Secretary of State may approve specifications and plans submitted to him under that section in connection with proposals for a significant enlargement of school premises in any case where he could under subsection (2) of this section do so if they were specifications and plans of the school premises of a new school proposed to be established” ;

and in subsection (3) after the words “This section” there shall be inserted the words “except subsection (2A)”.

8. In section 31(5) of the London Government Act 1963 (which provides that in Greater London schools maintained by a local education authority before April 1965 shall not cease to be so maintained except as there mentioned) for the words "except in accordance with section 13 or 14 of the said Act of 1944" there shall be substituted the words "except in accordance with the Education Acts 1944 to 1968".

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1963 c. 33.

SCHEDULE 2

Section 1.

REPEALS

| Chapter | Short title | Extent of repeal |
|--------------------------|--|--|
| 9 & 10 Geo. 6. c. 50. | The Education Act 1946. | Section 1(2). In Part II of Schedule 2, the entry relating to section 114 of the Education Act 1944. |
| 1 & 2 Eliz. 2. c. 33. | The Education (Miscellaneous Provisions) Act 1953. | In section 2(a), the words "(otherwise than by way of enlargement of an existing school)". Section 8(3)(b), together with the word "and" at the end of section 8(3)(a). |
| 1967 c. 3. | The Education Act 1967. | Section 1(2)(b), together with the word "or" at the end of section 1(2)(a). |

SCHEDULE 3

Section 5.

ENACTMENTS REPRINTED WITH AMENDMENTS

A : Education Act 1944 s. 13

1944 c. 31.

13.—(1) Where a local education authority intend—

- (a) to establish a new county school ;
- (b) to maintain as a county school any school which at the time being is not such a school ; or
- (c) to cease to maintain any county school or, save as provided by the next following section of this Act, any voluntary school ;

or where a local education authority intend to make any significant change in the character, or significant enlargement of the premises, of a county school, they shall submit proposals for that purpose to the Secretary of State.

(2) Where any persons propose that any school established by them or by persons whom they represent which at the time being is not a voluntary school, or any school proposed to be so established, should be maintained by a local education authority as a

SCH. 3 voluntary school, or where the managers or governors of a school maintained by a local education authority as a voluntary school intend to make any significant change in the character, or significant enlargement of the premises, of the school, they shall after consultation with the authority submit proposals for that purpose to the Secretary of State.

(3) After any proposals have been submitted to the Secretary of State under this section, the authority or persons by whom the proposals were submitted shall forthwith give public notice of the proposals in the prescribed manner, and the managers or governors of any voluntary school affected by the proposals or any ten or more local government electors for the area and any local education authority concerned may within two months after the first publication of the notice submit to the Secretary of State objections to the proposals:

Provided that this subsection shall not have effect in the case of proposals for the maintenance as a voluntary school of a school which is at the time being a school in respect of which grants are made by the Secretary of State, if the proposals are made with the concurrence of the authority and of the proprietor of the school and of any trustees in whom is vested any interest in the school premises.

(4) Any proposals submitted to the Secretary of State under this section may be approved by him after making such modifications therein, if any, as appear to him to be desirable:

Provided that the Secretary of State shall not approve proposals for the maintenance as a county school of any school which, at the time being, is a voluntary school, unless he has, in accordance with the provisions of the Second Schedule to this Act, approved an agreement made under the powers conferred by that Schedule between the authority and the managers or governors of the school for the transfer to the authority of all necessary interests in the school premises.

(5) A local education authority shall not, without the leave of the Secretary of State do or undertake to do anything (whether or not provided for by the development plan for the area) for which proposals are required by this section to be submitted to the Secretary of State until such proposals have been approved by him.

(6) After proposals for the establishment of a new school have been approved by the Secretary of State under this section, the authority or persons by whom the proposed school is to be established shall, unless they do not intend to give effect to the proposals, submit to him in such form and in such manner as he may direct specifications and plans of the school premises if the premises are new premises (that is to say, if the premises do not comprise buildings used for a school at the time when the proposals are approved) or if the Secretary of State so directs; and the Secretary of State, on being satisfied that the school premises will conform to the prescribed standards, may approve the specifications and plans:

Provided that, before submitting specifications and plans in respect of a school which is to be maintained as a voluntary school,

the persons by whom the school is to be established shall consult the local education authority.

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(7) When the proposals specifications and plans for a new school have been approved by the Secretary of State under this section or, in a case where specifications and plans are not required, when the proposals have been so approved and the Secretary of State has notified the authority or persons by whom the proposed school is to be established that specifications and plans will not be required, it shall be the duty of the authority or persons by whom the proposed school is to be established to give effect to the proposals in accordance with the specifications and plans so approved (if any), except that in the case of proposals submitted under subsection (2) of this section the duty of providing playing fields and any buildings which are to form part of the school premises but are not to be school buildings shall be the duty of the local education authority.

(8) When proposals for the maintenance of any school have been approved by the Secretary of State under this section, it shall be the duty of the local education authority to maintain it ; and an authority shall not be under any duty to maintain a school after proposals that the authority shall cease to maintain it have been approved by the Secretary of State under this section.

(9) Where proposals are made under this section for the enlargement of school premises, subsections (6) and (7) shall apply, with the necessary adaptations, as they apply in the case of proposals for the establishment of a new school (any reference to the persons by whom the proposed school is to be established being read as a reference to the managers or governors).

(10) References in this section to a change in the character of a school include in particular changes in character resulting from education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as for girls, or for girls as well as for boys, or from the making or alteration of arrangements for the admission of pupils by reference to ability or aptitude.

B : Education Act 1946 s. 1

1946 c. 50.

1.—(1) If upon the application of a local education authority and the managers or governors of a controlled school maintained by the authority the Secretary of State is satisfied—

(a) that there should be a significant enlargement of the school premises ; and

(b) either—

(i) that the enlargement is wholly or mainly required for the purpose of providing accommodation for pupils for whom accommodation would have been provided in some other voluntary school if that other school had not been discontinued or had not otherwise ceased to be available for the purpose ; or

(ii) that the enlargement is desirable for the better provision of primary or secondary education at the premises to be enlarged or for securing that there is

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available for the area of the authority a sufficiency of suitable primary or secondary schools or for both those reasons :

1944 c. 31.

then, if proposals for carrying out the enlargement are thereafter approved under section 13 of the Education Act 1944 (hereinafter referred to as "the principal Act"), the Secretary of State may by order direct that the expense of giving effect to those proposals shall be paid by the local education authority.

1948 c. 40.

C : Education (Miscellaneous Provisions) Act 1948 s. 7

7.—(1) For the proviso to subsection (2) of section ten of the principal Act (which empowers the Secretary of State 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 Secretary of State 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 the need to control public expenditure in the interests of the national economy 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 Secretary of State 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,

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or if the Secretary of State is satisfied, on the submission to him of the specifications and plans of the school premises where the premises are to comprise the existing site or buildings of another school, as to the matters mentioned in paragraph (a) 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.

(2A) Notwithstanding the provisions of section 13 of the principal Act as to conformity to the prescribed standards, the Secretary of State may approve specifications and plans submitted to him under that section in connection with proposals for a significant enlargement of school premises in any case where he could under subsection (2) of this section do so if they were specifications and plans of the school premises of a new school proposed to be established.

(3) This section, except subsection (2A), shall be deemed to have had effect since the commencement of Part II of the principal Act.



Consular Relations Act 1968

1968 CHAPTER 18

An Act to give effect to the Vienna Convention on Consular Relations; to enable effect to be given to other agreements concerning consular relations and to make further provision with respect to consular relations between the United Kingdom and other countries and matters arising in connection therewith; to restrict the jurisdiction of courts with respect to certain matters concerning or arising on board certain ships or aircraft; to enable diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases; and for purposes connected with those matters.

[10th April 1968]

BE IT ENACTED by the Queen'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:—

Application
of Vienna
Convention.

1.—(1) Subject to sections 2 and 3(2) of this Act, the provisions set out in Schedule 1 to this Act (being Articles or parts of Articles of the Vienna Convention on Consular Relations signed in 1963) shall have the force of law in the United Kingdom and shall for that purpose be construed in accordance with subsections (2) to (11) of this section.

(2) In those provisions—

“authorities of the receiving State” shall be construed as including any constable and any person exercising a power of entry to any premises under any enactment (including any enactment of the Parliament of Northern Ireland);

“grave crime” shall be construed as meaning any offence punishable (on a first conviction) with imprisonment for a term that may extend to five years or with a more severe sentence;

“Ministry for Foreign Affairs” shall be construed as meaning the Department of the Secretary of State concerned;

“national of the receiving State” shall be construed as meaning a citizen of the United Kingdom and Colonies, a person who is a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or 1948 c. 56, the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948.

(3) The reference in paragraph 2 of Article 17 to any privileges and immunities accorded by customary international law or by international agreements shall be construed as a reference to any privileges and immunities conferred under the International Organisations (Immunities and Privileges) Act 1950 c. 14, 1950.

(4) The references in Article 44 to matters connected with the exercise of the functions of members of a consular post shall be construed as references to matters connected with the exercise of consular functions by consular officers or consular employees.

(5) For the purposes of Article 45 and that Article as applied by Article 58 a waiver shall be deemed to have been expressed by a State if it has been expressed by the head, or any person for the time being performing the functions of head, of the diplomatic mission of that State or, if there is no such mission, of the consular post concerned.

(6) The exemption granted by Article 48 with respect to any services shall be deemed to except those services from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, under the National Insurance (Industrial Injuries) Acts 1965 to 1967, the National Insurance Acts 1965 to 1967, any enactment for the time being in force amending any of those Acts, or any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending it, but not so as to render any person liable to any contribution which he would not be required to pay if those services were not so excepted.

(7) Article 48 shall not affect any agreement made between the United Kingdom and any other State before the commencement of this Act and shall not be taken to prevent the making of any such agreement after the commencement of this Act.

(8) Articles 50, 51, 52, 54, 62 and 67 shall be construed as granting any privilege or immunity which they require to be granted.

(9) The reference in Article 57 to the privileges and immunities provided in Chapter II shall be construed as referring to those provided in Section II of that Chapter.

1964 c. 81.

(10) The reference in Article 70 to the rules of international law concerning diplomatic relations shall be construed as a reference to the provisions of the Diplomatic Privileges Act 1964.

(11) The references in Article 71 to additional privileges and immunities that may be granted by the receiving State or to privileges and immunities so far as these are granted by the receiving State shall be construed as referring to such privileges and immunities as may be specified by Her Majesty by Order in Council.

Restriction of
privileges and
immunities.

2. If it appears to Her Majesty that the privileges and immunities accorded to a consular post of the United Kingdom in a territory of any State, or to persons connected with such a consular post, are less than those conferred by this Act on a consular post of that State or on persons connected with such a consular post, Her Majesty may by Order in Council withdraw such of the privileges and immunities so conferred from all or any of the consular posts of that State or from such persons connected therewith as appears to Her Majesty to be proper.

Agreements
providing for
additional or
reduced
privileges and
immunities.

3.—(1) Where any agreement made, whether before or after the passing of this Act, between the United Kingdom and any other State provides for according to consular posts and persons connected with them privileges and immunities not accorded to them by the other provisions of this Act, Her Majesty may by Order in Council exercise, with respect to the consular posts of that State and persons connected with them, the powers specified in Schedule 2 to this Act so far as may be necessary to give effect to that agreement.

(2) Where any agreement made, whether before or after the passing of this Act, between the United Kingdom and any other State provides for according to consular posts and persons connected with them some but not all of the privileges and immunities accorded to them by the other provisions of this Act, Her Majesty may by Order in Council provide for excluding, with respect to consular posts of that State and persons connected with them, any of those privileges and immunities which are not provided for by the agreement.

4. Her Majesty may by Order in Council make provision for excluding or limiting the jurisdiction of any court in the United Kingdom to entertain proceedings relating to the remuneration or any contract of service of the master or commander or a member of the crew of any ship or aircraft belonging to a State specified in the Order, except where a consular officer of that State has been notified of the intention to invoke the jurisdiction of that court and has not objected within such time as may be specified by or under the Order.

Civil jurisdiction concerning service on board ship or aircraft.

5.—(1) Her Majesty may by Order in Council make provision for securing that, where an offence is alleged to have been committed on board any ship by the master or a member of the crew and the ship belongs to a State specified in the Order, proceedings for the offence instituted otherwise than at the request or with the consent of a consular officer of that State are not entertained by any court in the United Kingdom, unless—

Jurisdiction over offences committed on board ship.

(a) the offence is alleged to have been committed by or against a person who is a citizen of the United Kingdom and Colonies or is otherwise comprised in the definition of “national of the receiving State” in section 1(2) of this Act, or against a person other than the master or a member of the crew ; or

(b) the offence is one involving the tranquillity or safety of a port, or the law relating to safety of life at sea, public health, oil pollution, wireless telegraphy, immigration or customs or is of any other description specified in the Order ; or

(c) the offence is one comprised in the definition of “grave crime” in section 1(2) of this Act.

(2) For the purposes of this section, an offence which affects the property of any person shall be deemed to have been committed against him.

(3) For the purposes of this section, any document purporting to be signed by or on behalf of a consular officer and stating that he has requested or consented to the institution of any proceedings shall be sufficient proof of that fact unless the contrary is shown.

6. Her Majesty may by Order in Council designate any State for the purposes of this section ; and where a State is so designated, a member of the crew of a ship belonging to that State who is detained in custody on board for a disciplinary offence shall not be deemed to be unlawfully detained unless—

Detention on board ship for disciplinary offences.

(a) his detention is unlawful under the laws of that State or the conditions of detention are inhumane or unjustifiably severe ; or

(b) there is reasonable cause for believing that his life or liberty will be endangered for reasons of race

nationality, political opinion or religion, in any country to which the ship is likely to go.

Nationality of children of consular officers, etc.
1948 c. 56.

7.—(1) A person born within the United Kingdom and Colonies at any time after the coming into operation of this section shall not, by virtue of section 4 of the British Nationality Act 1948, be a citizen of the United Kingdom and Colonies by birth if he is the child of a person who, at that time—

- (a) was serving within the United Kingdom and Colonies as a member of a consular post of any State ; and**
- (b) was a national of that State ;**

unless he is the child of a father who at that time was a citizen of the United Kingdom and Colonies.

(2) In this section “ member of a consular post ” has the same meaning as, by virtue of Article 1 in Schedule 1 to this Act, it has in that Schedule, except that it does not include an honorary consular officer, nor, where a consular post of any State is headed by an honorary consular officer, any member of the post who is not in the full-time service of that State.

(3) Part III of the British Nationality Act 1948 (supplemental provisions) shall have effect as if any reference in it to that Act, except one referring to the date of the commencement of that Act, included a reference to this section.

Refund of customs duty on hydrocarbon oils.
1952 c. 44.

8.—(1) The Treasury may authorise the Secretary of State or the Commissioners of Customs and Excise to make, if he or they think fit, arrangements for securing the refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are—

- (a) bought in the United Kingdom ; and**
- (b) used for such purpose that, had they been imported for that use, exemption from customs duty thereon would have been required to be granted by virtue of Article 50 in Schedule 1 to this Act or by virtue of an Order under section 3(1) of this Act or section 1(2) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952.**

1952 c. 18.

(2) Any arrangements made under this section may impose conditions subject to which any refund is to be made.

(3) Any amount refunded under arrangements made under this section shall be defrayed—

- (a) if the arrangements are made by the Secretary of State, out of moneys provided by Parliament ; and**
- (b) if the arrangements are made by the Commissioners of Customs and Excise, out of the moneys standing to the credit of the General Account of the Commissioners of Customs and Excise.**

9. Nothing in section 41 of the Telegraph Act 1863 or in regulations under section 1(2)(a) of the Telegraph Act 1962 shall prevent the giving of priority to messages from consular officers and replies thereto so far as may be necessary for the purpose of giving effect to any agreement made, whether before or after the passing of this Act, between the United Kingdom and any other State.

Priority of telecommunications.
1863 c. 112.
1962 c. 14.

10.—(1) A diplomatic agent or consular officer of any State may, if authorised to do so under the laws of that State, administer oaths, take affidavits and do notarial acts—

Right of diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases.

- (a) required by a person for use in that State or under the laws thereof ; or
- (b) otherwise required by a national of that State but not for use in the United Kingdom except under the laws of some other country.

(2) Her Majesty may by Order in Council exclude or restrict the provisions of the preceding subsection in relation to the diplomatic agents or consular officers of any State if it appears to Her that in any territory of that State diplomatic agents or consular officers of the United Kingdom are not permitted to perform functions corresponding in nature and extent to those authorised by that subsection.

(3) Her Majesty may by Order in Council make provision for applying section 6 of the Commissioners for Oaths Act 1889 (powers as to oaths and notarial acts abroad) to countries within the Commonwealth or the Republic of Ireland by requiring the section to be construed as if—

1889 c. 10.

- (a) the references therein to a foreign country or place included such country or place as may be specified in the Order ; and
- (b) the diplomatic ranks specified in that section included such ranks of any United Kingdom mission in a country specified in the Order as may be so specified in relation to that country.

(4) In this section “ diplomatic agent ” has the same meaning as in the Diplomatic Privileges Act 1964.

1964 c. 81.

11. If in any proceedings any question arises whether or not any person is entitled to any privilege or immunity under this Act, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

Evidence.

12. In subsection (2) of section 1 of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952 (power to confer certain immunities on persons performing functions corresponding to those of a consular officer)

Consequential amendment.
1952 c. 18.

for paragraph (c) there shall be substituted the following paragraph:—

“(c) on members of the staff of any such person as is mentioned in the preceding paragraphs”

and for the words from “the like immunity” to the end of the subsection there shall be substituted the words “any immunities and privileges which are conferred by or may be conferred under the Consular Relations Act 1968, and the Order in Council may provide for extending, in relation to premises, official archives, communications, documents and personal property of persons on whom any immunities and privileges are or may be conferred under this section, and in relation to any fees and charges levied by them, the provisions of Articles 31 to 39 and 51 in Schedule 1 to that Act.

An Order in Council made under this subsection may exclude from any immunities and privileges conferred by it persons who are permanently resident in the United Kingdom or are comprised within the definition of ‘national of the receiving State’ in section 1(2) of the Consular Relations Act 1968 or any class of such persons.”

Common-
wealth and
Irish consular
officers.

13.—(1) If consular officers are appointed—

- (a) by Her Majesty’s Government in the United Kingdom to serve in any other country within the Commonwealth or in the Republic of Ireland ; or
- (b) by the Government of any other country within the Commonwealth or of the Republic of Ireland to serve in the United Kingdom ;

any enactment passed before the passing of this Act which confers any function on consular officers shall be construed in accordance with the following provisions of this section.

(2) References (however expressed) in any such enactment to a consular officer shall be construed, subject to any provision made under subsection (3)(a) of this section, as not including a consular officer appointed as mentioned in subsection (1)(a) of this section.

(3) Her Majesty may by Order in Council make provision—

- (a) for requiring references to a consular officer in any enactment passed before the passing of this Act to be construed as including a consular officer appointed as mentioned in subsection (1)(a) of this section (or as including a consular officer so appointed in any country or place specified in the Order) or for the exercise by a consular officer so appointed (or so appointed in any such country or place) of any functions conferred by the enactment on some other officer ;

(b) for making in the Merchant Shipping Acts 1894 to 1967 or the Consular Conventions Act 1949 such adaptations of any provision referring to a consular officer of a foreign State as appear to Her to be necessary or expedient to make the provision applicable to consular officers appointed as mentioned in subsection (1)(b) of this section and to dispense with any requirement as to the conclusion of a consular convention.

(4) The preceding provisions of this section shall not apply to the Consular Salaries and Fees Act 1891, but the expression “consular officer” in that Act shall include, in addition to the persons mentioned in section 3 of that Act, any person authorised by Her Majesty’s Government in the United Kingdom to exercise consular functions in another country within the Commonwealth or in the Republic of Ireland and to take fees under that Act.

14.—(1) No recommendation shall be made to Her Majesty in Council to make an Order containing such provision as is mentioned in section 1(11) or section 3(1) of this Act unless a draft thereof has been laid before and approved by resolution of each House of Parliament.

Orders in Council.

(2) Any other statutory instrument made under the foregoing provisions of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power to make an Order conferred by this Act includes power to vary or revoke such an Order by a subsequent Order.

15. Notwithstanding anything in the Colonial Laws Validity Act 1865, no colonial law within the meaning of that Act shall be void or inoperative as being repugnant to the Admiralty Offences (Colonial) Act 1849, the Territorial Waters Jurisdiction Act 1878 or section 685 or section 686 of the Merchant Shipping Act 1894 by reason only of making provision corresponding to section 5 of this Act.

Validation of certain provisions in colonial laws.
1865 c. 63.
1849 c. 96.
1878 c. 73.
1894 c. 60.

16.—(1) This Act may be cited as the Consular Relations Act 1968.

Short title, interpretation, commencement and repeal.

(2) For the purposes of section 4, 5 or 6 of this Act a ship, and for the purposes of section 4 an aircraft, shall be treated as belonging to a State in such circumstances as may be specified by an Order in Council under that section; and different circumstances may be so specified with respect to different States and different classes of ship or aircraft.

(3) This Act, except sections 7 to 11, shall not come into force until such day as Her Majesty may by Order in Council appoint.

(4) In the Consular Conventions Act 1949, section 4, in section 6(1) the words “or section 4” and, in section 7(2), paragraph (c) are hereby repealed.

1949 c. 29.

SCHEDULES

Section 1.

SCHEDULE 1

PROVISIONS OF VIENNA CONVENTION HAVING THE FORCE OF LAW IN THE UNITED KINGDOM

ARTICLE 1

Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

- (a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;
- (b) "consular district" means the area assigned to a consular post for the exercise of consular functions;
- (c) "head of consular post" means the person charged with the duty of acting in that capacity;
- (d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;
- (e) "consular employee" means any person employed in the administrative or technical service of a consular post;
- (f) "member of the service staff" means any person employed in the domestic service of a consular post;
- (g) "members of the consular post" means consular officers, consular employees and members of the service staff;
- (h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;
- (j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;
- (k) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CHAPTER I.—CONSULAR RELATIONS IN GENERAL

SCH. 1

ARTICLE 5

Consular functions

Consular functions consist in:

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law ;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention ;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested ;
- (d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State ;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State ;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State ;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State ;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons ;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests ;
- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for

SCH. 1

- the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State ;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews ;
 - (l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State ;
 - (m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

ARTICLE 15

Temporary exercise of the functions of the head of a consular post

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

SEC 1.

ARTICLE 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

CHAPTER II.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

ARTICLE 31

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this Article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

.....

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

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ARTICLE 32

Exemption from taxation of consular premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

ARTICLE 33

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

ARTICLE 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State

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he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

ARTICLE 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II.—FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

ARTICLE 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

ARTICLE 43

Immunity from jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

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- SCH. 1** 2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:
- (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
 - (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

ARTICLE 44

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

ARTICLE 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

ARTICLE 48

SEC. 1

Social security exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

ARTICLE 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
- (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;
- (d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

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3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

ARTICLE 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

- (a) articles for the official use of the consular post ;
- (b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

ARTICLE 51

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death ;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

ARTICLE 52

SCH. 1

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

ARTICLE 53**Beginning and end of consular privileges and immunities**

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

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ARTICLE 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

ARTICLE 55

Respect for the laws and regulations of the receiving State

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present convention, be considered to form part of the consular premises.

ARTICLE 57

Special provisions concerning private gainful occupation

2. Privileges and immunities provided in this Chapter shall not be accorded:

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;

- (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff ;
- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III.—REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

ARTICLE 58

General provisions relating to facilities, privileges and immunities

1. Articles 35, and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 60, 61 and 62.
2. Articles 43, paragraph 3 of Article 44, Articles 45 and 53 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 66 and 67.
3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

ARTICLE 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

ARTICLE 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

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SCH. 1

ARTICLE 62**Exemption from customs duties**

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, sign-boards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

ARTICLE 66**Exemption from taxation**

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

ARTICLE 67**Exemption from personal services and contributions**

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

CHAPTER IV.—GENERAL PROVISIONS**ARTICLE 70****Exercise of consular functions by diplomatic missions**

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

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4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

ARTICLE 71**Nationals or permanent residents of the receiving State**

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State

shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44.

SCH. 1

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State.

SCHEDULE 2

Section 3 (1).

PROVISIONS FOR GIVING EFFECT TO OTHER AGREEMENTS

1. The like exemption from dues and taxes may be extended to the residence of any member of a consular post as is accorded under Article 32 in Schedule 1 to this Act to the residence of the career head of a consular post.

2. Paragraph 1 of Article 49 in that Schedule may be extended to members of the service staff.

3. Paragraph 2 of Article 50 in that Schedule may be applied as if it were among the Articles mentioned in paragraph 2 of Article 58 in that Schedule, as if the reference to consular employees included members of the service staff and also such members of the families of consular employees or of members of the service staff as form part of their households, and as if the words "in respect of articles imported at the time of first installation" were omitted.

4. Articles 29 and 31 in Schedule 1 to the Diplomatic Privileges Act 1964 c. 81. (inviolability and immunity from jurisdiction and arrest of diplomatic agents and exemption from duty to give evidence) may be extended to members of a consular post and members of their families forming part of their households.

5. Article 22 in Schedule 1 to the Diplomatic Privileges Act 1964 (inviolability and protection of mission) may be extended to consular premises and paragraph 1 of Article 30 in that Schedule (inviolability of private residence) may be extended to the residences of consular officers.

6. Article 27 in Schedule 1 to the Diplomatic Privileges Act 1964 (freedom of communications) may be extended to the communications of a consular post.



Criminal Appeal Act 1968

1968 CHAPTER 19

An Act to consolidate certain enactments relating to appeals in criminal cases to the criminal division of the Court of Appeal, and thence to the House of Lords.

[8th May 1968]

BE IT ENACTED by the Queen'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

APPEAL TO COURT OF APPEAL IN CRIMINAL CASES

Appeal against conviction on indictment

1.—(1) A person convicted of an offence on indictment may appeal to the Court of Appeal against his conviction. Right of appeal.

(2) The appeal may be—

- (a) on any ground which involves a question of law alone ;
and
- (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal ;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

PART I
Grounds for
allowing
appeal under
s. 1.

2.—(1) Except as provided by this Act, the Court of Appeal shall allow an appeal against conviction if they think—

- (a) that the verdict of the jury should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory ; or**
- (b) that the judgment of the court of trial should be set aside on the ground of a wrong decision of any question of law ; or**
- (c) that there was a material irregularity in the course of the trial,**

and in any other case shall dismiss the appeal :

Provided that the Court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no miscarriage of justice has actually occurred.

(2) In the case of an appeal against conviction the Court shall, if they allow the appeal, quash the conviction.

(3) An order of the Court of Appeal quashing a conviction shall, except when under section 7 below the appellant is ordered to be retried, operate as a direction to the court of trial to enter, instead of the record of conviction, a judgment and verdict of acquittal.

Power to
substitute
conviction of
alternative
offence.

3.—(1) This section applies on an appeal against conviction, where the appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of the other offence.

(2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of the other offence, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.

Sentence when
appeal allowed
on part of an
indictment.

4.—(1) This section applies where, on an appeal against conviction on an indictment containing two or more counts, the Court of Appeal allow the appeal in respect of part of the indictment.

(2) Except as provided by subsection (3) below, the Court may in respect of any count on which the appellant remains convicted pass such sentence, in substitution for any sentence passed thereon at the trial, as they think proper and is authorised by law for the offence of which he remains convicted on that count.

(3) The Court shall not under this section pass any sentence such that the appellant's sentence on the indictment as a whole will, in consequence of the appeal, be of greater severity than the sentence (taken as a whole) which was passed at the trial for all offences of which he was convicted on the indictment.

PART I

5.—(1) This section applies on an appeal against conviction by a person in whose case the jury have found a special verdict. Disposal of appeal against conviction on special verdict.

(2) If the Court of Appeal consider that a wrong conclusion has been arrived at by the court of trial on the effect of the jury's verdict they may, instead of allowing the appeal, order such conclusion to be recorded as appears to them to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law.

6.—(1) Where, on an appeal against conviction, the Court of Appeal are of opinion— Substitution of finding of insanity or unfitness to plead.

(a) that the proper verdict would have been one of not guilty by reason of insanity ; or

(b) that the case is not one where there should have been a verdict of acquittal, but that there should have been a finding that the accused was under disability,

the Court shall make an order that the appellant be admitted to such hospital as may be specified by the Secretary of State.

(2) Schedule 1 to this Act applies with respect to the consequences and effect of an order made by the Court of Appeal under this section.

(3) On making an order under this section in the case of any person, the Court of Appeal may give such directions as they think fit for his conveyance to a place of safety and his detention there pending his admission to hospital within the relevant period specified by Schedule 1 to this Act.

(4) In section 72 of the Mental Health Act 1959 (which relates to the removal to hospital of persons serving sentences of imprisonment and is applied by subsection (6) of the section to persons in other forms of detention) references to a person serving a sentence of imprisonment shall be construed as not including references to a person subject to an order of the Court of Appeal under this section. 1959 c. 72.

Retrial

7.—(1) Where the Court of Appeal allow an appeal against conviction and do so only by reason of evidence received or available to be received by them under section 23 of this Act and it appears to the Court that the interests of justice so require, they may order the appellant to be retried. Power to order retrial.

PART I

(2) A person shall not under this section be ordered to be retried for any offence other than—

- (a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1) above ;
- (b) an offence of which he could have been convicted at the original trial on an indictment for the first-mentioned offence ; or
- (c) an offence charged in an alternative count of the indictment in respect of which the jury were discharged from giving a verdict in consequence of convicting him of the first-mentioned offence.

Supplementary provisions as to retrial.

8.—(1) A person who is to be retried for an offence in pursuance of an order under section 7 of this Act shall be tried on a fresh indictment preferred by direction of the Court of Appeal, and shall be tried before such court as the Court of Appeal may direct (being a court of assize or, if the offence is within the jurisdiction of a court of quarter sessions, a court of quarter sessions) or, if no such direction is given, before the court by which he was originally tried.

(2) The Court of Appeal may, on ordering a retrial, make such orders as appear to them to be necessary or expedient—

- (a) for the custody or admission to bail of the person ordered to be retried pending his retrial ; or
- (b) for the retention pending the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

(3) If the person ordered to be retried was, immediately before the determination of his appeal, liable to be detained in pursuance of an order or direction under Part V of the Mental Health Act 1959,—

1959 c. 72.

- (a) that order or direction shall continue in force pending the retrial as if the appeal had not been allowed ; and
- (b) any order made by the Court of Appeal under this section for his custody or admission to bail shall have effect subject to the said order or direction.

(4) Schedule 2 to this Act has effect with respect to the procedure in the case of a person ordered to be retried, the sentence which may be passed if the retrial results in his conviction and the order for costs which may be made if he is acquitted.

Appeal against sentence

PART I

9. A person who has been convicted of an offence on indictment may appeal to the Court of Appeal against any sentence (not being a sentence fixed by law) passed on him for the offence, whether passed on his conviction or in subsequent proceedings.

Appeal against sentence following conviction on indictment.

10.—(1) This section has effect for providing rights of appeal against sentence when a person is dealt with by a court of assize or quarter sessions (otherwise than on appeal from a magistrates' court) for an offence of which he was not convicted on indictment.

Appeal against sentence in other cases dealt with at assizes or quarter sessions.

(2) The proceedings from which an appeal against sentence lies under this section are those where an offender convicted of an offence by a magistrates' court—

- (a) is committed by the court to be dealt with for his offence at assizes or quarter sessions ; or
- (b) having been made the subject of a probation order or an order for conditional discharge or given a suspended sentence, appears or is brought before a court of assize or quarter sessions to be further dealt with for his offence.

(3) An offender dealt with for an offence at assizes or quarter sessions in a proceeding to which subsection (2) of this section applies may appeal to the Court of Appeal against sentence in any of the following cases :—

- (a) where either for that offence alone or for that offence and other offences for which sentence is passed in the same proceeding, he is sentenced to imprisonment for a term of six months or more ; or
- (b) where the sentence is one which the court convicting him had not power to pass ; or
- (c) where the court in dealing with him for the offence makes in respect of him—
 - (i) a recommendation for deportation ; or
 - (ii) an order disqualifying him for holding or obtaining a licence to drive a motor vehicle under Part II of the Road Traffic Act 1960 ; or
 - (iii) an order under section 40 of the Criminal Justice Act 1967 (orders as to existing suspended sentence when person subject to the sentence is again convicted).

1960 c. 16.

1967 c. 80.

(4) For purposes of subsection (3)(a) of this section, any two or more sentences are to be treated as passed in the same proceeding if—

- (a) they are passed on the same day ; or

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(b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence ;

and consecutive terms of imprisonment and terms which are wholly or partly concurrent are to be treated as a single term.

Supplementary provisions as to appeal against sentence.

11.—(1) An appeal against sentence, whether under section 9 or under section 10 of this Act, lies only with the leave of the Court of Appeal.

(2) Where a court of assize or quarter sessions, in dealing with an offender either on his conviction on indictment or in a proceeding to which section 10(2) of this Act applies, has passed on him two or more sentences in the same proceeding (which expression has the same meaning in this subsection as it has for the purposes of section 10), being sentences against which an appeal lies under section 9 or section 10, an appeal or application for leave to appeal against any one of those sentences shall be treated as an appeal or application in respect of both or all of them.

(3) On an appeal against sentence the Court of Appeal, if they consider that the appellant should be sentenced differently for an offence for which he was dealt with by the court below may—

- (a) quash any sentence or order which is the subject of the appeal ; and
- (b) in place of it pass such sentence or make such order as they think appropriate for the case and as the court below had power to pass or make when dealing with him for the offence ;

but the Court shall so exercise their powers under this subsection that, taking the case as a whole, the appellant is not more severely dealt with on appeal than he was dealt with by the court below.

(4) The power of the Court of Appeal under subsection (3) of this section to pass a sentence which the court below had power to pass for an offence shall, notwithstanding that the court below made no order under section 40(1) of the Criminal Justice Act 1967 (power of court on conviction of further offence to deal with suspended sentence) in respect of a suspended sentence previously passed on the appellant for another offence, include power to deal with him in respect of that suspended sentence where the court below—

- (a) could have so dealt with him if it had not passed on him a sentence of borstal training quashed by the Court of Appeal under subsection (3)(a) of this section ; or

- (b) did so deal with him in accordance with paragraph (d) of the said section 40(1) (power of Court of Appeal to make no order with respect to suspended sentence).

PART I

Appeal in cases of insanity

12. A person in whose case there is returned a verdict of not guilty by reason of insanity may appeal to the Court of Appeal against the verdict—

Appeal against verdict of not guilty by reason of insanity.

- (a) on any ground of appeal which involves a question of law alone ; and
- (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal ;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

13.—(1) Subject to the provisions of this section, the Court of Appeal shall allow an appeal under section 12 of this Act if they are of opinion—

Disposal of appeal under s. 12.

- (a) that the verdict should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory ; or
- (b) that the order of the court giving effect to the verdict should be set aside on the ground of a wrong decision of any question of law ; or
- (c) that there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal.

(2) The Court of Appeal may dismiss an appeal under section 12 of this Act, if of opinion that, notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.

(3) Where apart from this subsection—

- (a) an appeal under section 12 of this Act would fall to be allowed ; and
- (b) none of the grounds for allowing it relates to the question of the insanity of the accused,

the Court of Appeal may dismiss the appeal if they are of opinion that, but for the insanity of the accused, the proper verdict would have been that he was guilty of an offence other than the offence charged.

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(4) Where an appeal under section 12 of this Act is allowed, the following provisions apply:—

(a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal are of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the Court—

(i) shall substitute for the verdict of not guilty by reason of insanity a verdict of guilty of that offence; and

(ii) shall, subject to subsection (5) below, have the like powers of punishing or otherwise dealing with the appellant, and other powers, as the court of trial would have had if the jury had come to the substituted verdict; and

(b) in any other case, the Court of Appeal shall substitute for the verdict of the jury a verdict of acquittal.

(5) The Court of Appeal shall not by virtue of subsection (4)(a) above sentence any person to death; but where under that paragraph they substitute a verdict of guilty of an offence for which apart from this subsection they would be required to sentence the appellant to death, their sentence shall (whatever the circumstances) be one of imprisonment for life.

(6) An order of the Court of Appeal allowing an appeal in accordance with this section shall operate as a direction to the court of trial to amend the record to conform with the order.

Hospital
order on
disposal of
appeal.

14.—(1) Where, on an appeal under section 12 of this Act, the Court of Appeal are of opinion that the case is not one where there should have been a verdict of acquittal but that there should have been a finding that the accused was under disability, the Court shall make an order that the appellant be admitted to such hospital as may be specified by the Secretary of State.

(2) Where in accordance with section 13(4)(b) of this Act the Court of Appeal substitute a verdict of acquittal, and they are of opinion—

(a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital under observation (with or without other medical treatment) for at least a limited period; and

(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,

the Court shall make an order that the appellant be admitted for observation to such hospital as may be specified by the Secretary of State.

(3) Schedule 1 to this Act applies with respect to the consequences and effect of an order made by the Court of Appeal under this section.

(4) On making an order under this section in the case of any person, the Court of Appeal may give such directions as they think fit for his conveyance to a place of safety and his detention there pending his admission to hospital within the relevant period specified in Schedule 1 to this Act.

(5) In section 72 of the Mental Health Act 1959 (which relates to the removal to hospital of persons serving sentences of imprisonment and is applied by subsection (6) of the section also to persons in other forms of detention) references to a person serving a sentence of imprisonment shall be construed as not including references to a person subject to an order of the Court of Appeal under subsection (1) of this section. ^{1959 c. 72.}

Unfitness to stand trial

15.—(1) Where there has been a determination under section 4 of the Criminal Procedure (Insanity) Act 1964 of the question of a person's fitness to be tried, and the jury has returned a finding that he is under disability, the person may appeal to the Court of Appeal against the finding. ^{Right of appeal against finding of disability. 1964 c. 84.}

(2) An appeal under this section may be—

- (a) on any ground of appeal which involves a question of law alone; and
- (b) with the leave of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or a question of mixed law and fact, an appeal lies under this section without the leave of the Court of Appeal.

16.—(1) The Court of Appeal shall allow an appeal under section 15 of this Act if they are of opinion— ^{Disposal of appeal under s. 15.}

- (a) that the finding of the jury should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or

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(b) that the order of the court giving effect to the finding should be set aside on the ground of a wrong decision of any question of law ; or

(c) that there was a material irregularity in the course of the determination of the question of fitness to be tried ;

and in any other case (except one to which subsection (2) below applies) shall dismiss the appeal ; but they may dismiss the appeal if of opinion that, notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.

(2) An appeal under section 15 of this Act may, in a case where the question of fitness to be tried was determined later than on arraignment, be allowed by the Court of Appeal (notwithstanding that the finding was properly come to) if the Court are of opinion that the case is one in which the accused should have been acquitted before the question of fitness to be tried was considered ; and, if an appeal is allowed under this subsection, the Court of Appeal shall, in addition to quashing the finding, direct a verdict of acquittal to be recorded (but not a verdict of not guilty by reason of insanity).

(3) Subject to subsection (2) above, where an appeal under section 15 of this Act is allowed, the appellant may be tried accordingly for the offence with which he was charged, and the Court of Appeal may make such orders as appear to them to be necessary or expedient pending any such trial for his custody, admission to bail or continued detention under the Mental Health Act 1959 ; and Schedule 3 to this Act has effect for applying provisions in Part V of that Act to persons in whose case an order is made by the Court of Appeal under this subsection.

1959 c. 72.

Review by Court of Appeal of cases tried on indictment

Reference by
Home
Secretary.

17.—(1) Where a person has been convicted on indictment, or been tried on indictment and found not guilty by reason of insanity, or been found by a jury to be under disability, the Secretary of State may, if he thinks fit, at any time either—

(a) refer the whole case to the Court of Appeal and the case shall then be treated for all purposes as an appeal to the Court by that person ; or

(b) if he desires the assistance of the Court on any point arising in the case, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish the Secretary of State with their opinion thereon accordingly.

(2) A reference by the Secretary of State under this section may be made by him either on an application by the person referred to in subsection (1), or without any such application.

Procedure from notice of appeal to hearing

PART I

18.—(1) A person who wishes to appeal under this Part of this Act to the Court of Appeal, or to obtain the leave of that court to appeal, shall give notice of appeal or, as the case may be, notice of application for leave to appeal, in such manner as may be directed by rules of court. Initiating
procedure.

(2) Notice of appeal, or of application for leave to appeal, shall be given within twenty-eight days from the date of the conviction, verdict or finding appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.

(3) The time for giving notice under this section may be extended, either before or after it expires, by the Court of Appeal.

19. The Court of Appeal may, if they think fit, on the application of an appellant, admit him to bail pending the determination of his appeal. Bail.

20. If it appears to the registrar of criminal appeals of the Court of Appeal (hereafter referred to as "the registrar") that a notice of an appeal purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, he may refer the appeal to the Court for summary determination; and where the case is so referred the Court may, if they consider that the appeal is frivolous or vexatious, and can be determined without adjourning it for a full hearing, dismiss the appeal summarily, without calling on any one to attend the hearing or to appear for the Crown thereon. Disposal of
groundless
appeal.

21.—(1) The registrar shall—

- (a) take all necessary steps for obtaining a hearing of any appeal or application of which notice is given to him and which is not referred and dismissed summarily under the foregoing section; and
- (b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things which appear necessary for the proper determination of the appeal or application.

Preparation of
case for
hearing.

(2) Rules of court may enable an appellant to obtain from the registrar any documents or things, including copies or reproductions of documents, required for his appeal and may authorise the registrar to make charges for them in accordance with scales and rates fixed from time to time by the Treasury.

PART I

Right of
appellant to
be present.

The hearing

22.—(1) Except as provided by this section, an appellant shall be entitled to be present, if he wishes it, on the hearing of his appeal, although he may be in custody.

- (2) A person in custody shall not be entitled to be present—
- (a) where his appeal is on some ground involving a question of law alone ; or
 - (b) on an application by him for leave to appeal ; or
 - (c) on any proceedings preliminary or incidental to an appeal ; or
 - (d) where he is in custody in consequence of a verdict of not guilty by reason of insanity or of a finding of disability,

unless the Court of Appeal give him leave to be present.

(3) The power of the Court of Appeal to pass sentence on a person may be exercised although he is for any reason not present.

Evidence.

23.—(1) For purposes of this Part of this Act the Court of Appeal may, if they think it necessary or expedient in the interests of justice—

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case ;
- (b) order any witness who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be examined before the Court, whether or not he was called in those proceedings ; and
- (c) subject to subsection (3) below, receive the evidence, if tendered, of any witness.

(2) Without prejudice to subsection (1) above, where evidence is tendered to the Court of Appeal thereunder the Court shall, unless they are satisfied that the evidence, if received, would not afford any ground for allowing the appeal, exercise their power of receiving it if—

- (a) it appears to them that the evidence is likely to be credible and would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal ; and
- (b) they are satisfied that it was not adduced in those proceedings but there is a reasonable explanation for the failure to adduce it.

(3) Subsection (1)(c) above applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given in the proceedings from which the appeal lies except on such an application.

(4) For purposes of this Part of this Act, the Court of Appeal may, if they think it necessary or expedient in the interests of justice, order the examination of any witness whose attendance might be required under subsection (1)(b) above to be conducted, in manner provided by rules of court, before any judge or officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court.

Costs, etc.

24.—(1) The Court of Appeal may, when they allow an appeal against conviction or against a verdict of not guilty by reason of insanity or against a finding of disability, make an order for costs in favour of the appellant. Award of costs to successful appellant.

(2) An order for costs under this section is for the payment out of local funds of such sums as appear to the Court of Appeal reasonably sufficient to compensate the appellant for any expenses properly incurred by him in the case, that is to say—

- (a) in the prosecution of his appeal, including any proceedings preliminary or incidental thereto ; or
- (b) in carrying on his defence at assizes or quarter sessions, or before the examining justices who committed him for trial ;

and the reference above to the appellant's defence at assizes or quarter sessions includes a reference to his defence before any court of assize or quarter sessions before which proceedings for the offence for which he was committed were begun but not concluded.

25.—(1) The Court of Appeal may, when they dismiss an appeal or an application for leave to appeal, order the appellant to pay to such person as may be named in the order the whole or any part of the costs of the appeal or application. Costs on dismissal of appeal.

(2) Costs ordered to be paid under this section may include the cost of any transcript of a record of proceedings made in accordance with rules of court made for the purposes of section 32 of this Act.

PART I
Witnesses' expenses.

26. The Court of Appeal may order the payment out of local funds of such sums as appear to the Court reasonably sufficient to compensate a person properly attending to give evidence on an appeal, or any proceedings preliminary or incidental thereto, whether or not he gives evidence, for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

Expenses of appellant's appearance.

27. Where an appellant who is not in custody appears before the Court of Appeal, either on the hearing of his appeal or in any proceedings preliminary or incidental thereto, the Court may direct that there be paid to him out of local funds the expenses of his appearance.

Provisions supplementary to ss. 24 to 27.

28.—(1) Except as provided by the foregoing sections, no costs shall be allowed on the hearing or determination of an appeal, or of any proceedings preliminary or incidental to an appeal.

(2) Any amount ordered to be paid under section 24, 25 or 26 of this Act, except where it is a specific amount ordered under section 24 to be paid towards the appellant's expenses as a whole, or under section 25 to be paid towards the costs of an appeal or application as a whole, and any amount ordered to be paid to an appellant under section 27 of this Act, shall be ascertained as soon as practicable by the registrar.

(3) References in sections 24, 26 and 27 of this Act to payment out of local funds shall be construed as if they were contained in the Costs in Criminal Cases Act 1952.

1952 c. 48.

Other matters depending on result of appeal

Effect of appeal on sentence.

29.—(1) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject.

(2) Where the Court of Appeal give a contrary direction under subsection (1) above, they shall state their reasons for doing so; and they shall not give any such direction where—

(a) leave to appeal has been granted; or

(b) a certificate has been given by the judge of the court of trial under section 1 of this Act; or

(c) the case has been referred to them by the Secretary of State under section 17 of this Act.

PART I

(3) When an appellant is admitted to bail under section 19 of this Act, the time during which he is at large after being so admitted shall be disregarded in computing the term of any sentence to which he is for the time being subject.

(4) The term of any sentence passed by the Court of Appeal under section 3, 4, 5, 11 or 13(4) of this Act shall, unless the Court otherwise direct, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

30.—(1) The operation of an order for the restitution of property to a person made on a conviction on indictment and the operation in case of any such conviction of section 24(1) of the Sale of Goods Act 1893 as to the reversioning of the property in stolen goods on conviction shall (unless the court of trial direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

- (a) in any case until the expiration of twenty-eight days from the date of conviction; and
- (b) where notice of appeal or of application for leave to appeal is given within twenty-eight days from the date of conviction, until the determination of the appeal.

(2) In cases where the operation of such an order, or of section 24(1) of the Sale of Goods Act 1893, is suspended until the determination of the appeal, the order or that subsection, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal.

(3) Provision may be made by rules of court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said section 24(1).

(4) The Court of Appeal may by order annul or vary any order made by the court of trial for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

Supplementary

31.—(1) The powers of the Court of Appeal under this Part of this Act which are specified in subsection (2) below may be exercised by a single judge in the same manner as they may be exercised by the Court and subject to the same provisions.

Powers of Court under Part I which are exercisable by single judge.

(2) The said powers are the following:—

- (a) to give leave to appeal;
- (b) to extend the time within which notice of appeal or of application for leave to appeal may be given;

PART I

- (c) to allow an appellant to be present at any proceedings ;
- (d) to order a witness to attend for examination ;
- (e) to admit an appellant to bail ;
- (f) to make orders under section 8(2) of this Act and discharge or vary such orders ;
- (g) to make orders for the payment of costs under section 25 of this Act ;
- (h) to give directions under section 29(1) of this Act.

(3) If the single judge refuses an application on the part of an appellant to exercise in his favour any of the powers above specified, the appellant shall be entitled to have the application determined by the Court of Appeal.

Transcripts.

32.—(1) Rules of court may provide—

- (a) for the making of a record (whether by means of shorthand notes, by mechanical means or otherwise) of any proceedings in respect of which an appeal lies (with or without leave) to the Court of Appeal ; and
- (b) for the making and verification of a transcript of any such record and for supplying the transcript (on payment of such charge, if any, as may be fixed for the time being by the Treasury) to the registrar for the use of the Court of Appeal or any judge exercising the powers of a judge of the Court, and to such other persons and in such circumstances as may be prescribed by the rules.

(2) Without prejudice to subsection (1) above, the Secretary of State may, if he thinks fit, in any case direct that a transcript shall be made of any such record made in pursuance of the rules and be supplied to him.

(3) The cost—

- (a) of making any such record in pursuance of the rules ; and
- (b) of making and supplying in pursuance of this section any transcript ordered to be supplied to the registrar or the Secretary of State,

shall be defrayed, in accordance with scales of payment fixed for the time being by the Treasury, out of moneys provided by Parliament ; and the cost of providing and installing at a court any equipment required for the purpose of making such a record or transcript shall also be defrayed out of moneys so provided.

PART II

APPEAL TO HOUSE OF LORDS FROM COURT OF APPEAL
(CRIMINAL DIVISION)*The appeal*

33.—(1) An appeal lies to the House of Lords, at the instance of the defendant or the prosecutor, from any decision of the Court of Appeal on an appeal to that court under Part I of this Act. Right of appeal to House of Lords.

(2) The appeal lies only with the leave of the Court of Appeal or the House of Lords; and leave shall not be granted unless it is certified by the Court of Appeal that a point of law of general public importance is involved in the decision and it appears to the Court of Appeal or the House of Lords (as the case may be) that the point is one which ought to be considered by that House.

34.—(1) An application to the Court of Appeal for leave to appeal to the House of Lords shall be made within the period of fourteen days beginning with the date of the decision of the Court; and an application to the House of Lords for leave shall be made within the period of fourteen days beginning with the date on which the application for leave is refused by the Court of Appeal. Application for leave to appeal.

(2) The House of Lords or the Court of Appeal may, upon application made at any time by the defendant, extend the time within which an application may be made by him to that House or the Court under subsection (1) above.

(3) An appeal to the House of Lords shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for purposes of this Part of this Act an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

35.—(1) An appeal under this Part of this Act shall not be heard and determined by the House of Lords unless there are present at least three of the persons designated Lords of Appeal by section 5 of the Appellate Jurisdiction Act 1876. Hearing and disposal of appeal. 1876 c. 59.

(2) Any order of the House of Lords which provides for the hearing of applications for leave to appeal by a committee constituted in accordance with section 5 of the said Act of 1876 may direct that the decision of that committee shall be taken on behalf of the House.

PART II

(3) For the purpose of disposing of an appeal, the House of Lords may exercise any powers of the Court of Appeal or may remit the case to the Court.

Matters preliminary to hearing

Bail on
appeal by
defendant.

36. The Court of Appeal may, if it seems fit, on the application of a person appealing or applying for leave to appeal to the House of Lords, admit him to bail pending the determination of his appeal.

Detention of
defendant on
appeal by
the Crown.

37.—(1) The following provisions apply where, immediately after a decision of the Court of Appeal from which an appeal lies to the House of Lords, the prosecutor is granted or gives notice that he intends to apply for, leave to appeal.

(2) If, but for the decision of the Court of Appeal, the defendant would be liable to be detained, the Court of Appeal may make an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 36 above), so long as an appeal to the House of Lords is pending.

(3) An order under this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the Court of Appeal.

(4) Where an order is made under this section in the case of a defendant who, but for the decision of the Court of Appeal, would be liable to be detained in pursuance of—

1959 c. 72.

(a) an order or direction under Part V of the Mental Health Act 1959 (admission to hospital of persons convicted by criminal courts); or

1964 c. 84.

(b) an order under section 5(1) of the Criminal Procedure (Insanity) Act 1964 (admission to hospital following verdict of insanity or unfitness to stand trial),

the order under this section shall be one authorising his continued detention in pursuance of the order or direction referred to in paragraph (a) or (b) of this subsection; and the provisions of the Mental Health Act 1959 with respect to persons liable to be detained as mentioned in this subsection (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.

(5) Where the Court of Appeal have power to make an order under this section, and either no such order is made or the defendant is released or discharged, by virtue of subsection (3) or (4) of this section, before the appeal is disposed of, the defendant shall not be liable to be again detained as the result of the decision of the House of Lords on the appeal.

38. A defendant who is detained pending an appeal to the House of Lords shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto, except where an order of the House of Lords authorises him to be present, or where the House or the Court of Appeal, as the case may be, give him leave to be present.

PART II
Presence of defendant at hearing.

Costs

39.—(1) The following provisions apply where—

- (a) an application for leave to appeal to the House of Lords is made by the prosecutor and is dismissed by the Court of Appeal or that House ; or
- (b) an appeal to the House of Lords (whether by the prosecutor or the defendant) is determined in favour of the defendant.

Award of costs to defendant (whether appellant or respondent).

(2) The Court of Appeal in the case of an application for leave to appeal being dismissed by them, and the House of Lords in any other case may, if they think fit, order the payment to the defendant out of local funds (within the meaning of the Costs in Criminal Cases Act 1952) of such sums as appear to them reasonably sufficient to compensate him for his expenses.

1952 c. 48.

(3) The expenses which may be taken into account for purposes of subsection (2) above are, in a case to which subsection (1)(a) applies, those which the defendant has properly incurred in resisting the prosecutor's application for leave to appeal ; and in a case to which subsection (1)(b) applies they are those which he has properly incurred—

- (a) in the appeal to the House of Lords, including any application for leave to appeal ; or
- (b) in the prosecution of his appeal to the Court of Appeal ; or
- (c) in carrying on his defence at assizes or quarter sessions or before the examining justices who committed him for trial ;

and the reference above to his defence at assizes or quarter sessions includes a reference to his defence before any court of assize or quarter sessions before which proceedings for the offence for which he was committed were begun but not concluded.

40. Where the Court of Appeal or the House of Lords dismiss an application by the defendant for leave to appeal to that House, the Court or the House of Lords may, if they think fit, order him to pay to such person as may be named in the order the whole or any part of the costs of the application.

Costs against defendant.

PART II
 General
 provision
 as to costs
 and expenses.

41.—(1) Except as provided by sections 39 and 40 of this Act, no costs shall be allowed on the hearing or determination of an appeal to the House of Lords or of any proceedings preliminary or incidental to such an appeal.

(2) Any amount ordered to be paid under section 39 or 40 above shall, except where it is a specific amount ordered to be paid towards the defendant's expenses as a whole or, as the case may be, towards the costs of his application as a whole, be ascertained as soon as practicable—

- (a) where the order is made by the Court of Appeal, by the registrar ; and
- (b) where it is made by the House of Lords, by such officer or officers, and in such manner, as may be prescribed by order of the House.

Supplementary

Restitution
 of property.

42.—(1) Where the operation of an order for the restitution of property made on conviction on indictment is suspended until the determination of an appeal under Part I of this Act to the Court of Appeal, then, if the conviction is not quashed on that appeal, the operation of the order shall continue to be suspended—

- (a) in any case, until the expiration of the time within which an application for leave to appeal to the House of Lords may be made (disregarding any extension of time which may be granted under section 34 of this Act) ;
- (b) if any such application is made within that time, so long as the appeal to the House of Lords is pending.

(2) Where the operation of any such order is suspended under this section,—

- (a) the order shall not take effect if the conviction is quashed on appeal to the House of Lords ;
- (b) such steps shall be taken for the safe custody of the property in question during the period during which the operation of the order is suspended as may be prescribed by rules of court.

(3) Where by reason of the quashing by the Court of Appeal of a person's conviction any such order does not take effect, and on an appeal to the House of Lords the conviction is restored by that House, the House may make any order for the restitution of property which could be made on his conviction by the court which convicted him.

(4) This section applies in relation to section 24(1) of the Sale of Goods Act 1893 (revesting of stolen property on conviction of thief) as it applies in relation to an order for the restitution of property; and without prejudice to the powers of the House of Lords under subsection (3) of this section, the said section 24 shall apply in any case where a conviction on indictment is restored by that House as it applies on the conviction of an offender. PART II
1894 c. 71
(56 & 57 Vict.).

43.—(1) Where a person subject to a sentence is admitted to bail under section 36 or 37 of this Act, the time during which he is at large after being so admitted shall be disregarded in computing the term of his sentence. Effect of
appeal on
sentence.

(2) Subject to the foregoing subsection, any sentence passed on an appeal to the House of Lords in substitution for another sentence shall, unless that House or the Court of Appeal otherwise direct, begin to run from the time when the other sentence would have begun to run.

44. The following powers of the Court of Appeal under this Part of this Act, that is to say the power— Powers of
Court of
Appeal under
Part II which
are exercisable
by single
judge.

- (a) to extend the time for making an application for leave to appeal;
- (b) to make an order for or in relation to bail; or
- (c) to give leave for a person to be present at the hearing of any proceedings preliminary or incidental to an appeal,

may be exercised by a single judge, but where the judge refuses an application to exercise any of the said powers the applicant shall be entitled to have the application determined by the Court of Appeal.

PART III

MISCELLANEOUS AND GENERAL

45.—(1) Subject to rules of court made under section 1(5) of the Criminal Appeal Act 1966 (power by rules to distribute business of Court of Appeal between its civil and criminal divisions), all jurisdiction of the Court of Appeal under Part I or Part II of this Act shall be exercised by the criminal division of the Court; and references in those Parts to the Court of Appeal shall be construed accordingly as references to that division of the Court. Jurisdiction
of Court of
Appeal under
this Act.
1966 c. 31.

PART III

(2) The references in sections 31 and 44 of this Act to a single judge are to any judge of the Court of Appeal or of the Queen's Bench Division of the High Court.

Rules of
court.
1925 c. 49.

46.—(1) Rules made under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 may make provision with respect to any matter for which provision by rules of court is to be made under Part I or Part II of this Act, and may regulate generally the practice and procedure of the criminal division of the Court of Appeal; and, without prejudice to the generality of the foregoing, rules so made may require courts from which an appeal lies to that division to furnish it with any assistance or information which it may require for the purpose of exercising its jurisdiction.

(2) The Lord Chancellor may appoint two persons appearing to him to have special experience in criminal procedure, one being a practising barrister and one a practising solicitor, to be members of the Rule Committee of the Supreme Court (that is to say, the authority for the time being empowered to make rules under section 99 of the said Act of 1925) for the purpose of the Committee's power to make rules by virtue of subsection (1) of this section.

Legal aid.

47.—(1) The criminal division of the Court of Appeal may at any time assign to an appellant under Part I or Part II of this Act a solicitor and counsel, or counsel only, in his appeal or in proceedings preliminary or incidental thereto, where it appears desirable in the interests of justice that he should have legal aid and that he has not sufficient means to enable him to obtain it.

(2) The registrar shall report to the criminal division of the Court of Appeal, or a judge of the Court of Appeal or of the Queen's Bench Division of the High Court, any case in which it appears to him that, although no application has been made for the purpose, a solicitor and counsel or counsel only ought to be assigned to an appellant under Part I of this Act.

(3) The power of the criminal division of the Court of Appeal to assign legal aid may be exercised by a judge of the Court of Appeal or of the Queen's Bench Division of the High Court in the same manner as it may be exercised by the criminal division and subject to the same provisions; but if the judge refuses an application to exercise the power in an appellant's favour, the appellant shall be entitled to have the application determined by the Court.

1930 c. 32.

(4) Where an appellant is to be retried by virtue of an order under section 7 of this Act, section 1 of the Poor Prisoners Defence Act 1930 (entitlement to free legal aid) shall apply in his case as if he had been committed for trial for the offence

or offences in question and as if references in section 1(2) of that Act to the committing justices included references to the Court of Appeal. PART III

(5) Sections 18 and 23 of the Legal Aid and Advice Act 1949 c. 51. 1949 (extension of right to free legal aid and provision as to payment for it out of local funds) shall have effect as if for references therein to section 10 of the Criminal Appeal Act 1907 c. 23. 1907 there were substituted references to subsection (1) of this section; and in section 21(a) of that Act (remuneration of solicitors and counsel) for the reference to the said Act of 1907 there shall be substituted a reference to Part I of this Act.

(6) The fees of any counsel, and the expenses and fees of any solicitor, assigned to an appellant under this section shall be defrayed out of local funds within the meaning of the Costs in Criminal Cases Act 1952 c. 48. 1952 up to an amount allowed—

(a) in the case of an appeal under Part I of this Act by the criminal division of the Court of Appeal; and

(b) in the case of an appeal under Part II of this Act by the House of Lords or by such officer or officers of that House as may be prescribed by order of the House;

and references in section 12 of the said Act of 1952 (regulations) to the associated provisions of this Act shall be construed as including references to this subsection.

(7) This section is hereby repealed as from the day appointed under section 106(5) of the Criminal Justice Act 1967 for the coming into force of Part IV of that Act (new provisions as to legal aid in criminal cases); and section 38(2) of the Interpretation Act 1889 shall apply to this repeal as if this section had been repealed by another Act. 1967 c. 80.
1889 c. 63.

48. Schedule 4 to this Act shall have effect so as to modify and supplement certain provisions in Parts I and II of this Act in relation to cases involving sentence of death. Appeal in capital cases.

49. Nothing in this Act is to be taken as affecting Her Majesty's prerogative of mercy. Saving for prerogative of mercy.

50.—(1) In this Act, "sentence", in relation to an offence, includes any order made by a court when dealing with an offender (including a hospital order under Part V of the Mental Health Act 1959, with or without an order restricting discharge) and also includes a recommendation for deportation. Meaning of "sentence".
1959 c. 72.

(2) Any power of the criminal division of the Court of Appeal to pass a sentence includes a power to make a recommendation for deportation in cases where the court from which the appeal lies had power to make such a recommendation.

- PART III**
Interpretation. **51.—**(1) In this Act, except where the context otherwise requires—
- “ appeal ”, where used in Part I or II of this Act, means appeal under that Part, and “ appellant ” has a corresponding meaning and in Part I includes a person who has given notice of application for leave to appeal ;
- “ the court of trial ”, in relation to an appeal, means the court from which the appeal lies ;
- “ the defendant ”, in Part II of this Act, means, in relation to an appeal, the person who was the appellant before the criminal division of the Court of Appeal, and references to the prosecutor shall be construed accordingly ;
- “ the judge of the court of trial ” means the person who was the judge of that court, whether a judge of assize, chairman of quarter sessions, recorder or otherwise ;
- 1964 c. 84. “ under disability ” has the meaning assigned to it by section 4 of the Criminal Procedure (Insanity) Act 1964 (unfitness to plead) ; and
- 1962 c. 21.
 1914 c. 12. “ recommendation for deportation ” means a recommendation under Part II of the Commonwealth Immigrants Act 1962 or under an order made under the Aliens Restriction Act 1914.
- 1959 c. 72. (2) Any expression used in this Act which is defined in section 147(1) of the Mental Health Act 1959 has the same meaning in this Act as in that Act.
- (3) Part I of this Act applies in relation to proceedings on a coroner’s inquisition, and to matters arising out of such proceedings, as it applies in relation to proceedings on indictment and matters arising out of them.
- Consequential amendment of enactments.
 1965 c. 71. **52.—**(1) The enactments specified in Part I of Schedule 5 to this Act shall be amended as shown in that Schedule.
- 1957 c. 11. (2) If under section 4 of the Murder (Abolition of Death Penalty) Act 1965 (which provides for the Act to expire on the 31st July 1970, unless Parliament otherwise determines, and for enactments repealed by it to be thereupon revived) the Homicide Act 1957 again operates as though the said Act of 1965 had not been passed, Schedule 1 to the said Act of 1957 shall then operate with the amendments shown in Part II of Schedule 5 to this Act.
- Transitional provisions. **53.** The transitional provisions contained in Schedule 6 to this Act shall have effect.

54. The enactments specified in the second column of **PART III** Schedule 7 to this Act are hereby repealed to the extent specified **Repeals.** in the third column of that Schedule.

55.—(1) This Act may be cited as the **Criminal Appeal Act 1968.** **Short title, commencement and extent.**

(2) This Act shall come into force on the day appointed under section 106(5) of the Criminal Justice Act 1967 for the coming into force of section 98 of that Act. **1967 c. 80.**

(3) So much of Schedule 5 to this Act as amends the Geneva Conventions Act 1957 shall extend to Scotland and Northern Ireland and the repeal by this Act of section 2(2) of the Administration of Justice Act 1960 shall extend to Northern Ireland; but except as aforesaid this Act shall not extend to Scotland or Northern Ireland. **1957 c. 52. 1960 c. 65.**

SCHEDULES

Section 6.

SCHEDULE 1

CONSEQUENCES AND EFFECT OF ORDER FOR ADMISSION
TO HOSPITAL UNDER S.6 OR S.14

1.—(1) An order for admission to hospital under section 6 or section 14 of this Act shall be sufficient authority for any person acting under the authority of the Secretary of State to take the person to whom the order relates and convey him at any time within the relevant period to the hospital specified by the Secretary of State.

(2) The relevant period for the purposes of this paragraph is—

(a) in relation to an order under section 6 or 14(1), two months ;

(b) in relation to an order under section 14(2), seven days ;

the said period to begin in either case with the date on which the order was made.

(3) Where a person is admitted within the relevant period to the hospital specified by the Secretary of State, the order under section 6 or, as the case may be, section 14 shall be sufficient authority for the managers to detain him in accordance with the provisions of the Mental Health Act 1959 referred to in the following paragraphs, as those provisions apply by virtue of those paragraphs.

1959 c. 72.

2. A person who is admitted to hospital in pursuance of an order under section 6 or 14(1) of this Act shall be treated for the purposes of the Mental Health Act 1959 as if he had been so admitted in pursuance of a hospital order made (on the date of the order made under section 6 or 14(1)) under section 60 of that Act together with an order restricting discharge made under section 65 of that Act without limitation of time.

3. A person who is admitted to a hospital in pursuance of an order under section 14(2) of this Act shall be treated for the purposes of Part IV of the Mental Health Act 1959 as if he had been admitted (on the date of the order made under section 14(2)) in pursuance of an application for admission for observation duly made under the said Part IV.

Section 8.

SCHEDULE 2

PROCEDURAL AND OTHER PROVISIONS APPLICABLE ON ORDER
FOR RETRIAL*Depositions*

1925 c. 86.

1. On a retrial, section 13(3) of the Criminal Justice Act 1925 (reading of depositions) shall not apply to the depositions of any person who gave evidence at the original trial or to any written statement by such a person tendered under section 2 of the Criminal

1967 c. 80.

Justice Act 1967 in the committal proceedings before the original

trial; but a transcript of the record of the evidence given by any witness at the original trial may, with the leave of the judge, be read as evidence—

SCH. 2

- (a) by agreement between the prosecution and the defence; or
- (b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success,

and in either case may be so read without further proof, if verified in accordance with rules of court.

Sentence on conviction at retrial

2.—(1) Where a person ordered to be retried is again convicted on retrial, the court before which he is convicted may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.

(2) Without prejudice to its power to impose any other sentence, the court before which an offender is convicted on retrial may pass in respect of the offence any sentence passed in respect of that offence on the original conviction notwithstanding that, on the date of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.

(3) Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded—

- (a) any time before his conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed; and
- (b) any time during which he was at large after being admitted to bail under section 8(2) of this Act.

(4) Section 17(2) of the Criminal Justice Administration Act 1962 1962 c. 15. (deduction from certain sentences of time spent in custody before sentence) shall apply to any sentence imposed on conviction on retrial as if it had been imposed on the original conviction.

Costs where retrial results in acquittal

3. If the person ordered to be retried is acquitted on retrial, the costs of the defence which may be ordered to be paid out of local funds under section 1 of the Costs in Criminal Cases Act 1952 shall 1952 c. 48. include—

- (a) any costs which could have been ordered to be so paid under that section by the court by which he was originally tried if he had been acquitted at the original trial; and
- (b) if no order was made under section 24 or 39(2) of this Act in respect of his expenses on appeal, any sums for the payment of which such an order could have been made.

Section 16.

SCHEDULE 3

APPLICATION OF PROVISIONS IN PART V OF MENTAL HEALTH ACT 1959 WHERE ORDER MADE UNDER SECTION 16(3) OF THIS ACT

Order for custody pending trial

1959 c. 72.

1. Where an order is made by the Court of Appeal under section 16(3) of this Act for a person to be kept in custody pending trial, the following sections of the Mental Health Act 1959, that is to say—
 section 73 (transfer of persons in custody to hospital for treatment);

section 74 (special restrictions on discharge); and

section 76 (cases in which a direction for a person's transfer to hospital may lapse),

shall apply to him as they apply to the persons listed in paragraphs (a) to (c) of section 73(2) of the said Act of 1959.

Order for continued detention under Act of 1959

2. Where an order is made by the Court of Appeal under section 16(3) of this Act for a person's continued detention under the Mental Health Act 1959, Part V of that Act (admission to hospital of patients concerned in criminal proceedings and transfer of patients in custody) shall apply to him as if he had been ordered under the said section 16(3) to be kept in custody pending trial and were detained in pursuance of a transfer direction together with a direction restricting discharge.

Section 48.

SCHEDULE 4

PROCEDURAL AND OTHER MODIFICATIONS FOR CAPITAL CASES

Appeal to Court of Appeal

1. In the case of a conviction involving sentence of death the power of the criminal division of the Court of Appeal under section 18(3) of this Act to extend the time for giving notice of appeal, or notice of application for leave to appeal, shall not be exercisable.

2. In the case of a conviction involving sentence of death—

(a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of application for leave to appeal under Part I of this Act may be given; and

(b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as is practicable, and the sentence shall not be executed until after the determination of the appeal or, in cases where an application for leave to appeal is finally refused, of the application.

Appeal to House of Lords

3. In a case involving sentence of death, the power of the criminal division of the Court of Appeal or the House of Lords under section 34(2) of this Act to extend the time within which an application by the

defendant may be made to that division or the House for leave to appeal under Part II of this Act shall not be exercisable.

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4.—(1) Any application for leave to appeal under Part II of this Act in a case involving sentence of death, and any appeal for which leave is granted on such an application, shall be heard and determined with as much expedition as practicable.

(2) Where an appeal to the criminal division of the Court of Appeal is dismissed in a case involving sentence of death, the sentence shall not in any case be executed until after the expiration of the time within which an application for leave to appeal to the House of Lords may be made; and if such an application is duly made the sentence shall not be executed while that application, and any appeal for which leave is granted thereon, is pending.

(3) Section 34(3) of this Act applies for the construction of this paragraph.

SCHEDULE 5

Section 52.

AMENDMENT OF ENACTMENTS

PART I

MISCELLANEOUS CONSEQUENTIAL AMENDMENTS

THE PROSECUTION OF OFFENCES ACT 1879 (c. 22)

Section 2

For the words “under section 1 of the Administration of Justice Act 1960” there shall be substituted the words “under Part II of the Criminal Appeal Act 1968”; and after the section there shall be added the following section:—

“Duty to appear, when so directed, on criminal appeals.

2A.—(1) Without prejudice to the foregoing section, it shall be the duty of the Director of Public Prosecutions to appear for the Crown or the prosecutor, when directed by the court to do so, on any appeal under section 1 of the Administration of Justice Act 1960 (appeal from High Court in criminal cases) or Part I or Part II of the Criminal Appeal Act 1968 (appeals from assizes and quarter sessions to criminal division of the Court of Appeal and thence to House of Lords).

(2) In subsection (1) of this section “the court” means, in the case of an appeal to or from the criminal division of the Court of Appeal, that division and, in the case of an appeal from a divisional court of the Queen’s Bench Division, the divisional court”.

THE SUPREME COURT OF JUDICATURE (CONSOLIDATION)
ACT 1925 (c. 49)*Section 31(1)*

For paragraph (a) there shall be substituted the following paragraph:—

“(a) except as provided by this Act, the Administration of Justice Act 1960 or the Criminal Appeal Act 1968, from any judgment of the High Court in any criminal cause or matter”.

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SCH. 5 THE SENTENCE OF DEATH (EXPECTANT MOTHERS) ACT 1931 (c. 24)
Section 2(4)

For the words "under the Criminal Appeal Act 1907 to the Court of Criminal Appeal" there shall be substituted the words "under Part I of the Criminal Appeal Act 1968 to the criminal division of the Court of Appeal".

THE CHILDREN AND YOUNG PERSONS ACT 1933 (c. 12)
Section 55(5)

In paragraph (b), for the words "to the Court of Criminal Appeal in accordance with the Criminal Appeal Act 1907" there shall be substituted the words "to the criminal division of the Court of Appeal in accordance with Part I of the Criminal Appeal Act 1968".

THE COSTS IN CRIMINAL CASES ACT 1952 (c. 48)
Section 7

After the word "Act" there shall be inserted the words "or the Criminal Appeal Act 1968".

Section 8

1967 c. 80. In subsection (1) (as amended by paragraph 22 of Schedule 4 to the Criminal Justice Act 1967), for the words "under section 3(2) of this Act" there shall be substituted the words "under section 24 of the Criminal Appeal Act 1968".

Section 10

For subsection (2) there shall be substituted the following subsection:—

"(2) Where the criminal division of the Court of Appeal order the payment of costs by the appellant under section 25 of the Criminal Appeal Act 1968, or that division or the House of Lords order the payment of costs by the defendant under section 40 of that Act, the payment shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case."

In subsection (5), after the word "Act" there shall be inserted the words "or the Criminal Appeal Act 1968".

Section 11(1)

After the word "Act" there shall be inserted the words "or the Criminal Appeal Act 1968".

Section 12

For this section there shall be substituted the following:—

"Regulations. 12.—(1) The Secretary of State may by statutory instrument make regulations generally for carrying this Act and the associated provisions of the Criminal Appeal Act 1968 into effect and in particular may by regulations so made prescribe—

(a) rates or scales of payment of any costs payable out of local funds under this Act or the said associated provisions and the conditions under which such costs may be allowed ;

- (b) the manner in which an officer of the court making a payment to any person in respect of his attendance to give evidence is to be repaid out of local funds ;
- (c) the form of orders, certificates and notices under the Act or the said associated provisions, and the giving of information when certificates are sent under this Act by the officer of any magistrates' court ;

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and any provision of this Act or the said Act of 1968 enabling any sum to be paid out of local funds shall have effect subject to the regulations.

(2) In subsection (1) of this section 'the associated provisions of the Criminal Appeal Act 1968' means the following provisions of that Act, namely, sections 24 to 28 and 39 to 41 "

Section 17(2)

After the words "the Act" there shall be inserted the words "or the Criminal Appeal Act 1968".

THE PRISON ACT 1952 (c. 52)

Section 22(1)

For the words "the Criminal Appeal Act 1907" there shall be substituted the words "Part I of the Criminal Appeal Act 1968".

Section 47(4)

In paragraph (c), for the words "the Criminal Appeal Act 1907" there shall be substituted the words "Part I of the Criminal Appeal Act 1968".

THE GENEVA CONVENTIONS ACT 1957 (c. 52)

Section 4

For subsection (1) there shall be substituted the following subsections:—

"(1) Where a protected prisoner of war or protected internee has been sentenced to death or to imprisonment for a term of two years or more, the time within which he must give notice of appeal or notice of his application for leave to appeal to the criminal division of the Court of Appeal, the High Court of Justiciary or the Court of Criminal Appeal in Northern Ireland, as the case may be, shall, notwithstanding anything in the enactment relating to such appeals, be the period from the date of his conviction or, in the case of an appeal against sentence, of his sentence to the expiration of twenty-eight days after the date on which he received a notice given—

- (a) in the case of a protected prisoner of war, by an officer of Her Majesty's forces ;

SCH. 5

(b) in the case of a protected internee, by or on behalf of the governor of the prison in which he is confined,

1968 c. 21.

that the protecting power has been notified of his conviction and sentence; and, in a case to which the foregoing provisions of this subsection apply, a reference to the period aforesaid shall be substituted for the reference in section 30(1)(a) of the Criminal Appeal Act 1968 and section 31(1)(a) of the Criminal Appeal (Northern Ireland) Act 1968 (revesting and restitution of property) to the period of twenty-eight days from the date of conviction.

(1A) In the case of an appeal to the House of Lords under any of the Acts specified in the left-hand column of the following Table by a protected prisoner of war or protected internee, the period specified in the provision of that Act specified in relation thereto in the right-hand column (the provisions there listed being those which lay down the time for applying for leave to appeal) shall be extended until fourteen days after the date on which the applicant receives notice, given as mentioned in subsection (1)(a) or (b) of this section, that the protecting power has been notified of the decision of the court from which the appeal lies, or of the refusal of that court of the application for leave to appeal, as the case may be.

TABLE

| | | | | |
|-------------|---|-----|-----|-----------------|
| | The Administration of Justice Act 1960 | ... | ... | Section 2(1) |
| | The Criminal Appeal Act 1968 | ... | ... | Section 34(1) |
| | The Criminal Appeal (Northern Ireland) Act 1968 | | | Section 37(1) |
| 1968 c. 20. | The Courts-Martial (Appeals) Act 1968 | ... | ... | Section 40(1) " |

THE MENTAL HEALTH ACT 1959 (c. 72)

Section 73(2)

In paragraph (a), for the words "under section 1 of the Criminal Appeal Act 1964" there shall be substituted the words "under section 7 of the Criminal Appeal Act 1968".

THE ADMINISTRATION OF JUSTICE ACT 1960 (c. 65)

Section 13(6)

For the words "the Criminal Appeal Act 1907, or to a decision of the Court of Criminal Appeal under that Act; and for the purposes of that Act" there shall be substituted the words "Part I of the Criminal Appeal Act 1968, or to a decision of the criminal division of the Court of Appeal under that Part of that Act; and for the purposes of the said Part I".

THE CRIMINAL JUSTICE ADMINISTRATION ACT 1962 (c. 15)

Section 18(1)

For the words "section 2(1) of the Criminal Appeal Act 1964" there shall be substituted the words "section 8(1) of the Criminal Appeal Act 1968"

THE CRIMINAL PROCEDURE (INSANITY) ACT 1964 (c. 84)

SCH. 5

For Schedule 1 to the Act there shall be substituted the following Schedule:—

“ SCHEDULE 1

EFFECT OF ORDERS FOR ADMISSION TO HOSPITAL

1.—(1) An order for admission to hospital under section 5(1) of this Act shall be sufficient authority for any person acting under the authority of the Secretary of State to take the person to whom the order relates and convey him at any time within the period of two months (beginning with the date on which the order was made) to the hospital specified by the Secretary of State.

(2) The court by which any such order as aforesaid is made may give such directions as it thinks fit for the conveyance of a person to whom the order relates to a place of safety and his detention therein pending his admission to the hospital within the said period of two months.

(3) Where a person is admitted within the said period to the hospital specified by the Secretary of State, an order under section 5(1) of this Act shall be sufficient authority for the managers to detain him in the hospital in accordance with sections 60 and 65 of the Mental Health Act 1959 as applied by 1959 c. 72. the next following paragraph.

2.—(1) A person who is admitted to a hospital in pursuance of an order under section 5(1) of this Act shall be treated for the purposes of the Mental Health Act 1959 as if he had been so admitted in pursuance of a hospital order made (on the date of the order under section 5(1) of this Act) under section 60 of that Act, together with an order restricting discharge made under section 65 of that Act without limitation of time.

(2) For the purposes of section 5(4) of this Act, a person shall not be treated as detained in pursuance of an order at any time after the Secretary of State has directed (under section 66 of the said Act of 1959) that the said person shall cease to be subject to the special restrictions set out in section 65 of that Act.

(3) In the application of section 63(5) of the Mental Health Act 1959 to orders under section 5(1) of this Act, the proviso to section 63(5) shall have effect as if the reference to a conviction included a reference to a special verdict and to a finding that the accused was under disability.”

THE CRIMINAL APPEAL ACT 1966 (c. 31)

Section 1(2)

For paragraph (b), there shall be substituted the following paragraph:—

“ (b) the criminal division which shall, subject to any such rules, exercise—

(i) all jurisdiction of the Court of Appeal under Parts I and II of the Criminal Appeal Act 1968 ; and

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(ii) all other jurisdiction which was that of the Court of Criminal Appeal immediately before it ceased to exist (including the jurisdiction to order the issue of writs of venire de novo)."

PART II

AMENDMENTS (PROSPECTIVE) OF HOMICIDE ACT 1957,
SCHEDULE 1*Paragraph 2(3)*

For the words "the Criminal Appeal Act 1907" there shall be substituted the words "Part I of the Criminal Appeal Act 1968".

Paragraph 5

For the words "section 18 of the Criminal Appeal Act 1907" there shall be substituted the words "section 46 of the Criminal Appeal Act 1968".

Section 53.

SCHEDULE 6

TRANSITIONAL PROVISIONS

1.—(1) Any right of appeal subsisting immediately before the commencement of this Act by virtue of an enactment repealed thereby shall after that commencement be treated as subsisting by virtue of the corresponding enactment in this Act.

(2) Any appeal or application pending before the said commencement under an enactment so repealed may be prosecuted and disposed of in accordance with the provisions of this Act corresponding to those in force immediately before the said commencement and applicable to the appeal or application.

2.—(1) In so far as any order made, direction given or other thing done under an enactment repealed by this Act could have been made, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made, given or done under that corresponding provision.

(2) Any document referring to an enactment repealed by this Act shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.

3.—(1) The mention of particular matters in this Schedule shall not be taken to affect the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals.

1889 c. 63.

(2) References in this Schedule to enactments repealed by this Act shall be construed as including references to enactments which are reproduced in this Act in relation to matters for which provision is made by this Act while remaining unrepealed in relation to matters for which provision is made by another Act; and section 38 of the Interpretation Act 1889 shall apply with respect to any such enactment as if it had been repealed by this Act in relation to matters for which provision is made by this Act.

SCHEDULE 7

Section 54.

REPEALS

| Chapter | Short Title | Extent of Repeal |
|-------------------------------------|---|---|
| 7 Edw. 7. c. 23. | The Criminal Appeal Act 1907. | The whole Act. |
| 11 & 12 Geo. 6. c. 58. | The Criminal Justice Act 1948. | Section 38(1). |
| 15 & 16 Geo. 6. & 1 Eliz. 2. c. 48. | The Costs in Criminal Cases Act 1952. | Section 3. In section 4(1), the words "or in the prosecution of his appeal to the Court of Criminal Appeal". In section 17(5), the words "subsection (2) of section three". |
| 8 & 9 Eliz. 2. c. 65. | The Administration of Justice Act 1960. | In section 1, subsection (1)(b). Section 2(2). Section 3(2). Section 4(1). Sections 7 and 8. Section 9(4). Schedule 3, so far as it amends the Criminal Appeal Act 1907, the Supreme Court of Judicature (Consolidation) Act 1925 and section 10 of the Costs in Criminal Cases Act 1952. |
| 1964 c. 43. | The Criminal Appeal Act 1964. | Sections 1 to 3 and 6(2). Schedule 2, so far as it amends the Criminal Appeal Act 1907 and the Criminal Justice Administration Act 1962. |
| 1964 c. 84. | The Criminal Procedure (Insanity) Act 1964. | Sections 2 and 3. In section 4, subsection (6) and in subsection (7) the words from the beginning to "restricting discharge; and". In section 5, subsection (1)(b) and (d) and subsections (2) and (5). |
| 1966 c. 31. | The Criminal Appeal Act 1966. | In section 1, subsections (1) and (8). Sections 4 to 8. In section 12, the definitions in subsection (1) of "the 1907 Act" and "the 1952 Act", and subsection (3). In Schedule 2, paragraphs 1 to 3 and 6 to 8. |
| 1967 c. 80. | The Criminal Justice Act 1967. | Section 32(5). Section 97. Section 98(1) to (5) and (7). In section 106(2)(f), the words "the Geneva Conventions Act 1957", and in section 106(3)(e), the words "the Geneva Conventions Act 1957 and". |

SCH. 7

| Chapter | Short Title | Extent of Repeal |
|----------------------|--|---|
| 1967 c. 80 —cont. | The Criminal Justice Act 1967—cont. | In Schedule 4, paragraphs 1 to 8, 20, 23, 24(a), 28, and 33 to 40. In Schedule 6, paragraphs 4, 22 and 27. |



Courts-Martial (Appeals) Act 1968

1968 CHAPTER 20

An Act to consolidate the Courts-Martial (Appeals) Act 1951 and the enactments amending it, including so much of the Administration of Justice Act 1960 as provides an appeal from the Courts-Martial Appeal Court to the House of Lords. [8th May, 1968]

BE IT ENACTED by the Queen'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

THE COURTS-MARTIAL APPEAL COURT

1.—(1) The Courts-Martial Appeal Court established by the Courts-Martial (Appeals) Act 1951 for the purpose of hearing appeals from naval, army and air force courts-martial, shall continue in existence and is in this Act referred to either as “the Appeal Court” or as “the Court”. The Court and its jurisdiction. 1951 c. 46.

(2) The Appeal Court shall be a superior court of record and shall, for the purposes of this Act and subject to its provisions, have full power to determine, in accordance with this Act, any question necessary to be determined for the purpose of doing justice in any case before the Court.

(3) The powers of the Appeal Court shall be exercisable by them so far as they think it necessary or expedient in the interests of justice that they should be exercised, and the Court may issue any warrants necessary for enforcing their orders or sentences.

(4) Except as provided by Part III of this Act, no appeal shall lie from any decision of the Appeal Court.

PART I
Judges.

2.—(1) The following shall be judges of the Appeal Court:—

- (a) the *ex officio* and ordinary judges of the Court of Appeal and such of the judges of the Queen's Bench Division of the High Court as the Lord Chief Justice may, after consultation with the Master of the Rolls, from time to time nominate for the purpose;
- (b) such of the Lords Commissioners of Justiciary as the Lord Justice General may from time to time nominate for the purpose; and
- (c) such of the judges of Her Majesty's Supreme Court of Judicature of Northern Ireland as the Lord Chief Justice of Northern Ireland may from time to time nominate for the purpose.

(2) The Lord Chancellor may appoint other persons, being persons of legal experience, to be judges of the Appeal Court and—

- (a) the appointment of a person under this subsection shall be for such term as may be determined by the Lord Chancellor, with the approval of the Treasury, before his appointment and shall be subject to such conditions as may be so determined; and
- (b) a person so appointed who ceases to hold office as a judge of the Appeal Court shall be eligible for reappointment.

(3) There may be paid out of moneys provided by Parliament to the persons appointed under subsection (2) of this section to be judges of the Appeal Court such remuneration, and to all the judges of the Court such travelling and subsistence allowances, as the Lord Chancellor may, with the approval of the Treasury, determine.

3. Any power under this Act which is exercisable by a judge of the Appeal Court may also be exercised—

- (a) by any judge of the Queen's Bench Division of the High Court;
- (b) by any Lord Commissioner of Justiciary;
- (c) by any judge of Her Majesty's Supreme Court of Judicature of Northern Ireland,

notwithstanding that he is not for the time being a judge of the Appeal Court; and references in this Act to a judge of the Court shall be construed accordingly.

Sittings.

4.—(1) For the purpose of hearing and determining appeals under this Act, or any matter preliminary or incidental to an appeal, the Appeal Court shall be summoned in accordance with directions given by the Lord Chief Justice with the consent of the Lord Chancellor.

Other senior judges who may exercise powers of Appeal Court.

(2) If the Lord Chief Justice so directs, the Appeal Court may sit in two or more divisions.

(3) The Appeal Court shall sit at such place as the Lord Chief Justice shall direct, whether within or outside the United Kingdom.

5.—(1) Subject to the provisions of this section, the Appeal Court shall be duly constituted if it consists of an uneven number of judges, not being less than three.

Constitution of Court for particular sittings.

(2) At least one of the judges of which the Appeal Court consists at any sitting must be a judge of the Court by virtue of section 2(1) of this Act, except that where the Court is directed to sit at a place outside the United Kingdom the Lord Chancellor may, if he thinks it expedient to do so, direct that this provision shall not apply to the Court while sitting at that place.

(3) The determination of any question before the Appeal Court shall be according to the opinion of the majority of the judges of the Court hearing the case.

6. The Master of the Rolls may exercise the powers conferred on the Lord Chief Justice by sections 2 and 4 above if at any time the Lord Chief Justice is unable to exercise them himself or there is a vacancy in the office of Lord Chief Justice.

Power of Master of the Rolls to act for Lord Chief Justice.

7.—(1) There shall be a registrar of the Appeal Court (in this Act referred to as "the registrar") to be appointed by the Lord Chancellor, and the Lord Chancellor may appoint such other officers and servants of the Court as he may, with the approval of the Treasury as to numbers, determine.

Court staff, salaries and pensions.

(2) The remuneration of the officers and servants of the Appeal Court shall be such as the Lord Chancellor may, with the approval of the Treasury, determine, and the Superannuation Acts 1965 and 1967 shall have effect as if service as an officer or servant of the Appeal Court were service in an established capacity in the permanent civil service of the State in an appointment held directly from the Crown.

(3) The remuneration of the officers and servants of the Appeal Court and such other expenses of the Court as the Treasury may sanction shall be defrayed out of moneys provided by Parliament.

PART II

APPEALS FROM COURTS-MARTIAL

Right of appeal and initiating procedure

Right of
appeal.

8.—(1) Subject to the provisions of this Act, a person convicted by court-martial may, with the leave of the Appeal Court, appeal to the Court against his conviction.

(2) Subject as aforesaid, the person's right of appeal shall not be exercisable—

(a) unless, within such period as may be prescribed, he presents to the Defence Council a petition praying that his conviction be quashed ; and

(b) until either the prescribed period (beginning with the day on which the petition is presented) expires or he is notified by the Defence Council that the petition has not been granted, whichever event first occurs.

(3) If a person presents a petition for the purposes of subsection (2)(a) above, but fails to do so within the period prescribed for those purposes and subsequently applies for leave to appeal, the Appeal Court may direct that he be treated as not having thereby lost his right of appeal if they think that there is a reasonable explanation of the failure and that it is in the interests of justice that he should be so treated.

(4) Rules of court may provide that, in such circumstances as may be specified in the rules, a petition for the purposes of subsection (1) above which is presented to such person as may be specified in the rules shall be treated, for the purposes of that subsection, as having been presented to the Defence Council.

Application
for leave
to appeal.

9.—(1) Leave to appeal to the Appeal Court shall not be given except on an application in that behalf made by or on behalf of the appellant and lodged, within the prescribed period, with the registrar.

(2) The application must be in the prescribed form and specify the grounds on which leave to appeal is sought and such other particulars, if any, as may be prescribed.

(3) The Appeal Court may extend the period within which an application for leave to appeal must be lodged, whether the period has expired or not.

(4) Rules of court may provide that, in such circumstances as may be specified in the rules, an application which is lodged with a person (other than the registrar) specified in the rules shall be treated for purposes of subsection (1) above as having been lodged with the registrar ; and it shall be the duty of the specified

person, if an application is lodged with him in accordance with the rules, to act as follows :—

PART II

- (a) he shall forward the application to the registrar with as much expedition as practicable ; and
- (b) if it appears to him practicable to do so, and in all the circumstances expedient, he shall forthwith furnish the registrar (before the receipt by the latter of the application) with such particulars of the application as will enable the registrar to prepare a copy of it.

10.—(1) The following provisions apply where a person who has been convicted by a court-martial held outside the United Kingdom duly petitions the Defence Council in accordance with section 8 of this Act.

Alternative procedure for appeal from court-martial abroad.

(2) If, before the expiration of the time for appealing, the Defence Council receive from the person convicted an application for leave to appeal to the Appeal Court accompanied by a request that the Council will forward the application to the registrar in the event of its being decided not to grant the petition, it shall be the duty of the Council to comply with that request.

(3) The convicted person's right of appeal under section 8 of this Act becomes exercisable (if it has not already done so) on the happening of the event referred to in subsection (2) above, that is to say its being decided not to grant the petition.

(4) In this section " the time for appealing " means the period prescribed for the purpose of section 9(1) of this Act as the period within which an application for leave to appeal must be lodged.

11.—(1) In considering whether or not to give leave to appeal the Appeal Court shall have regard to any expression of opinion made by the Judge Advocate of Her Majesty's Fleet or the Judge Advocate General that the case is a fit one for appeal, and if any such expression is so made they may, without more, give leave to appeal.

Consideration of application by Appeal Court.

(2) Where the Appeal Court dismiss an application for leave to appeal they may, if they consider the application to have been frivolous or vexatious, order that any sentence passed upon the applicant in the proceedings from which it was sought to bring the appeal shall begin to run from the day on which the Appeal Court dismiss the application.

PART II

Disposal of appeal

Power to quash conviction as wrong in law, etc.

12.—(1) The Appeal Court shall allow an appeal against conviction by court-martial if they think—

- (a) that the finding of the court-martial under all the circumstances of the case is unsafe or unsatisfactory ; or
- (b) that the finding involves a wrong decision of a question of law ; or
- (c) that there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal :

Provided that the Court may, notwithstanding that they are of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no miscarriage of justice has actually occurred.

(2) If the Appeal Court allow an appeal against conviction, they shall quash the conviction.

Adjustment of sentence in case of conviction on two or more charges.

13. Where—

- (a) it appears to the Appeal Court that an appellant, though not properly convicted on some charge preferred against him before the court-martial by which he was tried, was properly convicted on some other charge so preferred ; and
- (b) the sentence passed by the court-martial on the appellant was not warranted by the relevant Service Act for the offence of which he was convicted on the other charge,

the Court shall pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence so warranted as they think proper.

Substitution of conviction on different charge.

14.—(1) This section applies where an appellant has been convicted of an offence and the court-martial by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Appeal Court that the court-martial must have been satisfied of facts which proved him guilty of that other offence.

(2) The Appeal Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the other offence, and may pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as they think proper, being a sentence warranted by the relevant Service Act for that other offence, but not a sentence of greater severity.

15.—(1) Where an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment, and it appears to the Appeal Court that the court-martial by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment, the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the offence as being committed under circumstances involving the lower degree of punishment.

PART II
Variation of conviction so as to attract different sentence.

(2) Where an appellant has been convicted of an offence and it appears to the Appeal Court that the court-martial by which he was tried ought to have found him guilty of the offence subject to exceptions or variations, the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the offence subject to exceptions or variations.

(3) Where the Appeal Court exercise the power conferred by subsection (1) or subsection (2) above, they may pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as they think proper, being a sentence warranted by the relevant Service Act for the offence specified or involved in the substituted finding, but not a sentence of greater severity.

16.—(1) This section applies in a case where, on an appeal, the Appeal Court are of opinion—

Substitution of finding of insanity or unfitnes to plead.

- (a) that the proper finding would have been a finding of not guilty by reason of insanity ; or
- (b) that the case is not one where there should have been a finding of not guilty, but that there should have been a finding that the accused was unfit to stand his trial.

(2) The Appeal Court shall order the appellant to be kept in custody under the relevant Service enactment in like manner as on a finding of not guilty by reason of insanity or a finding of unfitnes to stand trial by the court-martial by which the appellant was convicted.

(3) In subsection (2) above, the “ relevant Service enactment ” means—

- section 63 of the Naval Discipline Act ;
- section 116 of the Army Act ; or
- section 116 of the Air Force Act,

(being enactments which provide for a person to be kept in custody until the pleasure of Her Majesty is made known), according to whether the appellant was convicted by a naval, army or air force court-martial.

PART II
Term of sentence passed under s. 13, 14 or 15.

17.—(1) The term of any sentence passed by the Appeal Court under section 13, 14 or 15 of this Act shall, unless the Court otherwise direct, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal was brought.

(2) A sentence passed by the Appeal Court under any of those sections shall—

- (a)** if passed on an appeal against conviction by a naval court-martial, be deemed, for purposes of the Naval Discipline Act, to be a sentence passed by such a court-martial; and
- (b)** if passed on an appeal against conviction by an army or air force court-martial, be deemed for purposes of the Army Act or the Air Force Act, as the case may be, to be a sentence passed by an army, or as the case may be, an air force court-martial, being a sentence that has been confirmed.

Retrial

Retrial generally excluded.

18. Except as provided by this Act, where the conviction of a person by court-martial for an offence has been quashed under this Act, he shall not be liable to be tried again for that offence by a court-martial or by any other court.

Power to authorise retrial in certain cases.

19.—(1) The Appeal Court shall have the power, on quashing a conviction, to make an order authorising the appellant to be retried by court-martial, but shall only exercise this power when the appeal against conviction is allowed by reason only of evidence received or available to be received by the Court under sections 28 to 30 of this Act and it appears to the Court that the interests of justice require that an order under this section should be made.

(2) This section has effect notwithstanding the restrictions on retrial imposed by section 134 of the Army Act and section 134 of the Air Force Act.

(3) An appellant shall not be retried under this section for an offence other than—

- (a)** the offence of which he was convicted by the original court-martial and in respect of which his appeal is allowed as mentioned in subsection (1) above;
- (b)** any offence of which he could have been convicted at the original court-martial on a charge of the first-mentioned offence; or
- (c)** any offence charged in the alternative in respect of which the court-martial recorded no finding in consequence of convicting him of the first-mentioned offence.

PART II

(4) A person who is to be retried under this section for an offence shall, if the Appeal Court so directs, be retried on a fresh charge or charges specified in the direction ; but whether he is so tried or is retried on one or more of the original charges, no fresh investigation or other steps shall be taken under sections 76 to 79 of the Army Act or sections 76 to 79 of the Air Force Act (investigation and summary disposal of charge by commanding officer) in relation to the charge or charges on which he is to be retried.

20.—(1) The limitations imposed by—

- section 52 of the Naval Discipline Act ;
- section 132 of the Army Act ; and
- section 132 of the Air Force Act,

Implementa-
tion of
authority for
retrial, and
supplementary
orders of
Appeal Court.

with respect to the time within which a trial under those Acts respectively may be begun, shall not apply in the case of a retrial authorised by an order of the Appeal Court under section 19 of this Act ; but a person to whom such an order applies shall not be retried unless the order convening the court-martial is issued within the period of three months beginning with the date of the order under section 19.

(2) The Appeal Court may, where they authorise a retrial, make such orders as appear to them to be necessary or expedient for the retention until the relevant time of property or money which has been restored, delivered or paid in pursuance of an order made on or in consequence of the original conviction or has been placed in safe custody while the operation of any such order is suspended.

(3) Where retrial is authorised in the case of a person who immediately before the date of the authorisation was liable to be detained in pursuance of a direction under United Kingdom mental health legislation, that direction shall continue in force until the relevant time as if his conviction had not been quashed.

(4) The legislation referred to in subsection (3) above is Part V of the Mental Health Act 1959, Part V of the Mental Health (Scotland) Act 1960 and Part III of the Mental Health Act (Northern Ireland) 1961. 1959 c. 72.
1960 c. 61.
1961 c. 15
(N.I.).

(5) In subsections (2) and (3) above the references to “the relevant time” are references to the expiration of the period of three months mentioned in subsection (1) of this section or, if during that period a court-martial has been convened for the retrial of an appellant, the time when his case is finally disposed of:

Provided that for the purposes of subsection (2) above the relevant time, in a case where the appellant is found guilty on

PART II his retrial, is the expiration of the period of twenty-eight days beginning with the date of the finding.

(6) Schedule 1 to this Act contains additional provisions applicable to a retrial authorised by order of the Appeal Court under section 19 of this Act; and of the four Parts of the Schedule, Part I applies to retrial under the Naval Discipline Act; Part II applies to retrial under the Army Act; Part III applies to retrial under the Air Force Act; and Part IV applies to all three cases.

Insanity

Appeal
against
finding of
not guilty
by reason
of insanity.

21.—(1) A person who has been tried by court-martial for an offence and been found not guilty by reason of insanity may, with the leave of the Appeal Court, appeal to the Court against the finding; and in relation to any such appeal this Part of this Act, except sections 13 to 16, shall apply, subject to this section and section 22 below, as it applies in relation to an appeal by a person convicted against his conviction (with the necessary adaptations of references to a person convicted or to conviction).

(2) Where apart from this subsection—

- (a) an appeal against a finding of not guilty by reason of insanity would fall to be allowed; and
- (b) none of the grounds for allowing it relates to the question of the insanity of the appellant,

the Appeal Court may dismiss the appeal if they are of opinion that but for the insanity of the appellant the proper finding would have been that he was guilty of an offence other than the offence charged.

Consequences
where appeal
under s. 21
allowed.

22.—(1) The following provisions shall have effect where an appeal against a finding of not guilty by reason of insanity is allowed by the Appeal Court.

(2) If the ground, or one of the grounds, for allowing the appeal is that the finding as to the appellant's insanity ought not to stand and the Appeal Court are of opinion that the proper finding would have been a finding of guilty of an offence (whether the offence charged or any other offence of which the court-martial could have found him guilty), the Court shall substitute for the finding of the court-martial a finding of guilty of that offence.

(3) On substituting a finding of guilty of an offence, the Appeal Court shall have the like powers of sentencing the appellant, and other powers, as the court-martial which tried him

would have had on the like finding of guilty ; and section 17 of this Act shall apply as in the case of a sentence passed by the Court under section 13, 14 or 15 of this Act.

PART II

(4) In any case where subsection (2) above does not apply, the Appeal Court shall substitute for the finding appealed against a finding of not guilty.

23.—(1) The following provisions shall have effect in the case of an appeal by a person who, in pursuance of a finding of not guilty by reason of insanity, is detained under—

Power to order detention under mental health legislation. 1959 c. 72. 1960 c. 61. 1961 c. 15 (N.I.).

- (a) section 71 of the Mental Health Act 1959 ; or
- (b) section 64 of the Mental Health (Scotland) Act 1960 ; or
- (c) section 57 of the Mental Health Act (Northern Ireland) 1961,

(which sections relate to orders for a person to be kept in custody during Her Majesty's pleasure), where the Appeal Court under section 22 of this Act substitute a finding of not guilty.

(2) If the Appeal Court are of opinion—

- (a) that the person is suffering from mental disorder (within the meaning of the Mental Health Act 1959) of a nature or degree which warrants his detention in a hospital under observation (with or without other medical treatment) for at least a limited period ; and
- (b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,

they shall make an order for his continued detention under the said Act.

(3) An order under subsection (2) above shall be sufficient authority for the person to be detained, and the said Act shall apply as if on the date of the order he had been admitted to hospital in pursuance of an application duly made under that Act (being in England and Wales an application for admission for observation).

Unfitness to stand trial

24.—(1) A person found by a court-martial to be unfit to stand his trial may, with the leave of the Appeal Court, appeal to the Court against the finding.

Appeal against finding of unfitness.

(2) In relation to an appeal under this section, this Part of this Act, except sections 13 to 16, shall apply (subject to section 25 below) as it applies in relation to an appeal by a person convicted against his conviction (with the necessary adaptations of references to a person convicted or to conviction).

PART II
Disposal of
appeal under
s. 24.

25.—(1) The following provisions of this section apply with respect to an appeal under section 24 of this Act.

(2) Where the question whether the accused was unfit to stand his trial was determined by the court-martial at a time later than on arraignment or, in the case of a naval court-martial, later than on the commencement of the trial, the appeal may be allowed (notwithstanding that the finding was properly come to) if the Appeal Court are of opinion that the case is one in which the court-martial should before that time have come to a finding of not guilty.

(3) If the Appeal Court are of the said opinion, they shall substitute a finding of not guilty (but not a finding of not guilty by reason of insanity) and the appellant shall then not be liable to be tried by a court-martial or by any other court for the offence with which he was charged.

(4) Where the appeal is allowed and the Appeal Court do not substitute a finding of not guilty, the appellant may be tried accordingly for the said offence; and if he is for the time being detained under the Mental Health Act 1959, the Mental Health (Scotland) Act 1960 or the Mental Health Act (Northern Ireland) 1961, the Court may make such order as appears to them necessary or expedient pending any such trial for his continued detention under that Act.

1959 c. 72.
1960 c. 61.
1961 c. 15
(N.I.).

General procedural provisions

Presentation,
of appellant's
case.

26. An appellant may, if he so desires, instead of presenting his case orally, present it in writing in the prescribed form.

Presence of
appellant at
hearing.

27. An appellant shall not be entitled to be present at the hearing of an appeal to the Appeal Court or at any proceedings preliminary or incidental to such an appeal, except where the Court give him leave to be so; and accordingly any power of the Court to pass a sentence may be exercised notwithstanding the absence of the appellant.

Evidence.

28.—(1) The Appeal Court may—

- (a) order the production of any document, exhibit or other thing connected with the proceedings the production of which appears to them necessary for the determination of the case;
- (b) order any witness who would have been a compellable witness at the trial to attend for examination and be examined before the Court, whether or not he was called at the trial; and
- (c) receive the evidence, if tendered, of any witness.

(2) Without prejudice to the generality of subsection (1) above, where evidence is tendered to the Appeal Court under that subsection the Court shall, unless they are satisfied that the evidence if received would not afford any ground for allowing the appeal, exercise their power under that subsection of receiving it if—

- (a) it appears to them that the evidence is likely to be credible and would have been admissible at the trial on an issue which is the subject of the appeal ; and
- (b) they are satisfied that it was not adduced at the trial, but that there is a reasonable explanation of the failure to adduce it.

(3) Subsection (1)(c) above applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given at the trial except on such an application.

(4) The Appeal Court may order the examination of any witness whose attendance may be required under subsection (1)(b) of this section to be conducted in the prescribed manner before any judge of the Court or before any other person appointed by the Court for that purpose, and allow the admission of any depositions so taken as evidence before the Court.

29.—(1) The Appeal Court may order the taking of such steps as are requisite to obtain from any member of the court-martial by which the appellant was tried, or the person who officiated as judge advocate at the trial, a report giving his opinion on the case or on any point arising in it, or containing a statement as to any facts of which the ascertainment appears to the Court to be material for the purpose of determining the case.

Power to call for report by member of trial court.

(2) The Court shall not make an order under this section for the purpose of obtaining a report from a member of a court-martial other than the president of it unless they also make such order for the purpose of obtaining a report from the president or are satisfied that the obtaining of a report from him is impracticable or would involve undue delay.

30.—(1) Where any question arising on an appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Appeal Court conveniently be conducted before them, the Court may order the reference of the question in the prescribed manner for inquiry and report to a special commissioner

Other powers for facilitating disposal of appeal.

PART II appointed by them, and act upon the report of the commissioner so far as they think fit to adopt it.

(2) The Appeal Court may appoint a person with special expert knowledge to act as assessor to the Court in any case where it appears to them that such knowledge is required for the proper determination of the case.

(3) There may be paid out of moneys provided by Parliament to a special commissioner to whom a question is referred under this section for inquiry and report, and to a person appointed as assessor to the Appeal Court, such remuneration and such travelling and subsistence allowances as may be prescribed by regulations made by the Lord Chancellor.

(4) The power of the Lord Chancellor under subsection (3) above to make regulations shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Costs

Costs of
successful
appeal.

31.—(1) Where the Appeal Court allow an appeal they may if they think fit, direct the payment by the Secretary of State of costs to the appellant.

(2) The costs which may under this section be directed to be paid are such sums as appear to the Appeal Court reasonably sufficient to compensate the appellant for any expenses properly incurred by him in the case that is to say—

- (a) in the prosecution of his appeal (including any proceedings preliminary or incidental thereto); or
- (b) in carrying on his defence before the court-martial from which the appeal lies, or before any other court-martial before which were begun, but not concluded, proceedings for the offence with which he was charged before the first-mentioned court-martial.

Costs against
appellant.

32.—(1) Where the Appeal Court dismiss an appeal or an application for leave to appeal they may, if they think fit, order the appellant or applicant (as the case may be) to pay to the Secretary of State the whole or any part of the costs of the appeal or application, including the costs of copying or transcribing any documents for the use of the Appeal Court.

(2) An order under this section may be enforced—

- (a) in the same manner as an order for the payment of costs made by the High Court in civil proceedings; or

(b) by making deductions from pay due to the appellant or applicant, as the case may be, or partly in the one way and partly in the other.

(3) Any sums which by virtue of subsection (2)(a) above are recovered from a person by the Secretary of State shall be paid into the Exchequer.

33.—(1) The Appeal Court may, whether or not they exercise their powers under either of the two foregoing sections, order the payment out of moneys provided by Parliament of such sums as appear to the Court reasonably sufficient to compensate any person properly attending to give evidence on an appeal under this Part of this Act or any proceedings preliminary or incidental thereto (whether or not he gives evidence) for the expense, trouble or loss of time properly incurred in or incidental to his attendance. Witnesses' expenses.

(2) The amount of any costs ordered to be paid under this section shall be ascertained as soon as practicable by the registrar.

Special references to Appeal Court

34.—(1) If, in the case of the conviction of a person by court-martial,— Reference of cases by Service authorities.

(a) it appears to the Judge Advocate of Her Majesty's Fleet or the Judge Advocate General that the finding of the court-martial involves a point of law of exceptional importance which in his opinion should be determined by the Appeal Court; or

(b) it appears to the Secretary of State, upon consideration of matters appearing to him not to have been brought to the notice of the court-martial at the trial, to be expedient that the finding of the court-martial should be considered or reconsidered by the Appeal Court,

the Judge Advocate of Her Majesty's Fleet, the Judge Advocate General or the Secretary of State, as the case may be, may refer the finding to the Court.

(2) A reference to the Appeal Court under this section shall, for all purposes other than those of sections 31 and 32 of this Act, be treated as an appeal by the person convicted against his conviction.

(3) The foregoing provisions of this section shall apply in the case of a finding by a court-martial of not guilty by reason of insanity as they apply in the case of the conviction of a person by court-martial.

PART II
Order for costs of defence on reference under s. 34.

35.—(1) Where on a reference under section 34 of this Act the person who was tried by court-martial appears before the Appeal Court, the Court shall direct the payment by the Secretary of State of such sums as appear to them reasonably sufficient to compensate that person for any expenses properly incurred by him for the purposes of his appearance.

(2) In any such case the Appeal Court may, if they think fit, also direct the payment by the Secretary of State of such sums as appear to them reasonably sufficient to compensate the person who was tried by court-martial for any expenses properly incurred by him in carrying on his defence before the court-martial or before any other court-martial before which were begun, but not concluded, proceedings for the offence with which he was charged before the court-martial by which he was tried.

Supplementary

Powers under Part II which are exercisable by single judge.

36.—(1) The following powers of the Appeal Court under this Part of this Act, that is to say the power—

- (a) to give a direction under section 8(3) that a person be treated as not having lost his right of appeal ;
- (b) to give leave to appeal ;
- (c) to extend the period within which an application for leave to appeal must be lodged ;
- (d) to make orders under section 20(2) and discharge or revoke such orders ;
- (e) to allow an appellant to be present at any proceedings ;
- (f) to order witnesses to attend for examination ; and
- (g) to make an order under section 32 for the payment of costs,

may be exercised by any judge of the Appeal Court in the same manner as they may be exercised by the Court, and subject to the same provisions.

(2) If the judge refuses an application on the part of an appellant to exercise in his favour any of the powers mentioned in subsection (1) above (other than the power to make an order for the payment of costs), the appellant, upon making a requisition in that behalf within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined by the Appeal Court as duly constituted for the hearing and determination of appeals.

Documents relating to trial to be furnished for appeal.

37.—(1) In the case of every appeal or application for leave to appeal to the Appeal Court from a naval court-martial it shall be the duty of the Defence Council to furnish to the registrar, in accordance with rules of court, the proceedings of the court-martial and any petition presented by the person tried thereby.

PART II

(2) In the case of every appeal or application for leave to appeal from an army or air force court-martial, it shall be the duty of the Judge Advocate General to furnish to the registrar, in accordance with rules of court, the proceedings of the court-martial (including any proceedings with respect to the revision of the finding of the court-martial in pursuance of section 109 of the Army Act or section 109 of the Air Force Act, as the case may be), the proceedings with respect to the confirmation of the finding and sentence of the court-martial and any petition presented by the person tried thereby.

38. It shall be the duty of the Defence Council to undertake the defence of any appeal to the Appeal Court under this Part of this Act. Defence of appeals.

PART III

APPEAL FROM COURTS-MARTIAL APPEAL COURT TO HOUSE OF LORDS

39.—(1) An appeal lies to the House of Lords, at the instance of the accused or the Defence Council, from any decision of the Appeal Court on an appeal to them under Part II of this Act, whether given by them when sitting within or outside the United Kingdom. Right of appeal.

(2) The appeal lies only with the leave of the Appeal Court or the House of Lords; and such leave shall not be granted unless it is certified by the Appeal Court that a point of law of general public importance is involved in the decision and it appears to the Court or the House of Lords, as the case may be, that the point is one which ought to be considered by that House.

40.—(1) An application to the Appeal Court for leave to appeal to the House of Lords shall be made within the period of fourteen days beginning with the date of the decision of the Court; and an application to the House of Lords for leave shall be made within the period of fourteen days beginning with the date on which the application is refused by the Appeal Court. Application for leave to appeal.

(2) The House of Lords or the Appeal Court may, upon application made at any time by the accused, extend the time within which an application may be made by him to that House or the Court under subsection (1) above.

(3) An appeal shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for purposes

O

PART III

of this Part of this Act an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

Hearing
and disposal
of appeal.

1876 c. 59.

41.—(1) An appeal under this Part of this Act shall not be heard and determined by the House of Lords unless there are present not less than three of the persons designated Lords of Appeal by section 5 of the Appellate Jurisdiction Act 1876.

(2) Any order of the House of Lords which provides for the hearing of applications for leave to appeal by a committee constituted in accordance with section 5 of the said Act of 1876 may direct that the decision of that committee shall be taken on behalf of the House.

(3) For the purpose of disposing of an appeal under this Part of this Act, the House of Lords may exercise any powers of the Appeal Court or may remit the case to the Court.

Bail.

42.—(1) When a person to whom this section applies appeals, or applies for leave to appeal, to the House of Lords from a decision of the Appeal Court, the Court shall have power to grant him bail pending the appeal.

(2) This section applies to any person who—

(a) not being subject to the Naval Discipline Act, nor to military law nor to air force law, is liable by virtue of that Act, or the Army Act or the Air Force Act, to be tried as if he were so subject; or

(b) is subject to the Naval Discipline Act by virtue only of section 119(1) of it (sentenced offenders).

Detention of
accused.

43.—(1) Where the accused would, but for the decision of the Appeal Court, be liable to be detained, and immediately after that decision the Defence Council are granted, or give notice that they intend to apply for, leave to appeal, the Appeal Court may make an order providing for the detention of the accused or directing that he shall not be released except on bail (which may, in the case of a person to whom section 42 of this Act applies, be granted as under that section) so long as any appeal to the House of Lords is pending.

(2) An order under this section shall (unless the appeal has been previously disposed of) cease to have effect at the expiration of the period for which the accused would have been liable to be detained but for the decision of the Appeal Court.

(3) An order made under this section for the detention of a person who, but for the decision of the Appeal Court, would be liable to be detained in pursuance of an order or direction

under United Kingdom mental health legislation shall be an order authorising his continued detention in pursuance of that order or direction; and the relevant provisions of that legislation with respect to persons liable to be detained thereunder (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly. PART III

(4) The legislation referred to in subsection (3) above is Part V of the Mental Health Act 1959, the Mental Health (Scotland) Act 1960 and the Mental Health Act (Northern Ireland) 1961. 1959 c. 72.
1960 c. 51.
1961 c. 15
(N.I.).

(5) Where the Appeal Court has power to make an order under this section, and either no such order is made or the accused is released or discharged by virtue of subsection (2) or (3) above before the appeal is disposed of, the accused shall not be liable to be again detained as a result of the decision of the House of Lords on the appeal.

44. Where the accused is detained pending an appeal from the Appeal Court to the House of Lords, he shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto unless an order of the House of Lords authorises him to be present, or that House or the Appeal Court give him leave to be present. Presence of
accused at
hearing.

45.—(1) Subject to this section, any sentence passed on an appeal from the Appeal Court to the House of Lords in substitution for another sentence shall, unless the House of Lords or the Appeal Court otherwise direct, begin to run from the time when that other sentence would have begun to run. Effect of
appeal on
sentence.

(2) Where under this Part of this Act a person subject to a sentence is admitted to bail pending an appeal, the time during which he is at large after being so admitted shall be disregarded in computing the term of his sentence.

46.—(1) Where the operation of an order for the restitution of property, being an order made under— Restitution
of property.

section 76 of the Naval Discipline Act;

section 138 of the Army Act; or

section 138 of the Air Force Act,

(which sections apply when persons are convicted by court-martial of theft or other offences against property), is suspended until the determination of an appeal to the Appeal Court, the following subsections apply.

PART III

(2) If the conviction is not quashed on appeal, the operation of the order shall continue to be suspended—

(a) in any case, until the expiration of the time within which an application for leave to appeal to the House of Lords may be made (disregarding any extension of time which may be granted under section 40 of this Act); and

(b) if such an application is made within that time, so long as the appeal to the House of Lords is pending.

(3) Where the operation of an order is suspended under this section,—

(a) the order shall not take effect if the conviction is quashed on appeal to the House of Lords;

(b) such steps shall be taken for the safe custody of the property in question during the period during which the operation of the order is suspended as may be prescribed.

(4) Where by reason of the quashing by the Appeal Court of a person's conviction an order to which subsection (1) of this section applies does not take effect and on appeal to the House of Lords the conviction is restored by the House, the House may make any order for the restitution of property which could be made on his conviction by the court-martial which convicted him or, in the case of an appeal relating to a conviction under the Naval Discipline Act, by the Defence Council.

Costs.

47.—(1) Where the Appeal Court or the House of Lords dismiss an application for leave to appeal to that House and the application was made by the Secretary of State, the Court or the House may direct the payment by the Secretary of State of such sums as appear to the Court or the House to be reasonably sufficient to compensate the accused for any expenses properly incurred by him in resisting the application.

(2) Where the Appeal Court or the House of Lords dismiss an application for leave to appeal to that House and the application was made by the accused, the Court or the House may make the like order as may be made by the Court under section 32(1) of this Act where they dismiss an application for leave to appeal to the Court; and any order made under this subsection may be enforced in the manner described in section 32(2) of this Act.

(3) Where an appeal from the Appeal Court to the House of Lords is determined in favour of the accused, the House of Lords may, if they think fit, direct the payment by the Secretary of State of such sums as appear to the House to be reasonably

sufficient to compensate the accused for any expenses properly incurred by him in the case up to and including the appeal, that is to say—

- (a) in the appeal to the House of Lords ;
- (b) in the prosecution of his appeal to the Appeal Court (including any proceedings preliminary or incidental thereto) ; and
- (c) in carrying on his defence before the court-martial by which he was convicted or found not guilty by reason of insanity or unfit to stand his trial, or before any other court-martial before which were begun, but not concluded, proceedings for the offence with which he was charged before the court-martial by which he was convicted or so found, as the case may be.

(4) Except as provided by the foregoing provisions of this section, no costs shall be allowed on the hearing or determination of an appeal from the Appeal Court to the House of Lords, or of any proceedings preliminary or incidental to such an appeal.

48. The following powers of the Appeal Court under this Part of this Act, that is to say the power—

- (a) to extend the time for making an application for leave to appeal ;
- (b) to make an order for or in relation to bail ; and
- (c) to give leave to be present at the hearing of any proceedings preliminary or incidental to an appeal,

Powers under Part III which are exercisable by single judge.

may be exercised by any judge of the Court ; but where the judge refuses an application to exercise any of the said powers, the applicant shall be entitled to have the application determined by the Appeal Court.

PART IV

MISCELLANEOUS AND GENERAL

49.—(1) Rules of court made by the Lord Chief Justice with the approval of the Lord Chancellor may provide for regulating the procedure and practice to be followed in the Appeal Court and for any other matters which by this Act are expressed to be subjects for rules of court.

Rules of Court.

(2) Rules of court made for the purposes of any provision of this Act may make different provision in relation to different classes of cases and may provide for any incidental or supplementary matters for which it appears to the Lord Chief Justice

PART IV

to be necessary or expedient for the purposes of that provision to provide.

1946 c. 36.

(3) The power under this section to make rules of court shall be exercisable by statutory instrument, and the Statutory Instruments Act 1946 shall apply to a statutory instrument containing rules of court made under this section in like manner as if the rules had been made by a Minister of the Crown.

(4) A statutory instrument containing rules of court made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Duties of registrar with respect to appeals etc.

50.—(1) The registrar shall take all necessary steps for obtaining the determination of an appeal or application under this Act, and shall obtain and lay before the Appeal Court in proper form all documents, exhibits and other things relating to the proceedings in the court-martial by which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) The registrar shall furnish the necessary forms and instructions relating to applications for leave to appeal under this Act to any person who demands them, to persons in charge of places where persons sentenced by court-martial may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit.

(3) Every person in charge of such a place as is referred to in subsection (2) above shall cause the said forms and instructions to be placed at the disposal of persons confined in that place who wish to apply for leave to appeal to the Appeal Court, or from that Court to the House of Lords.

Legal aid.

51.—(1) The Appeal Court may at any time assign to an appellant under Part II of this Act a solicitor and counsel, or counsel only, in any appeal under that Part or proceedings preliminary or incidental thereto in which, in the opinion of the Court, it appears desirable in the interests of justice that the appellant should have legal aid and has not sufficient means to enable him to obtain that aid.

(2) In the case of an appeal to the House of Lords under Part III of this Act, subsection (1) of this section shall apply to the defendant in the proceedings from which the appeal lies (whether he is appellant or respondent in the appeal) as it applies to the appellant in an appeal under Part II of this Act.

(3) The power of the Appeal Court to grant legal aid under this section may be exercised by any judge of the Court in the same manner as it may be exercised by the Court, and subject to the same provisions; but if the judge refuses an application on the part of a person to exercise the said power

in his favour, the person shall, upon making a requisition in that behalf within the prescribed period and in the prescribed form and manner, be entitled to have the application determined by the Appeal Court as duly constituted for the hearing and determination of appeals.

(4) If, on a question of granting a person legal aid under this section, there is a doubt whether it is desirable in the interests of justice that he should have legal aid or whether he has sufficient means to enable him to obtain it, the doubt shall be resolved in favour of granting him legal aid.

(5) Before a person is granted legal aid under this section he may be required to furnish a written statement in the prescribed form about matters relevant for determining whether his means are insufficient to enable him to obtain legal aid, and if a person in furnishing such a written statement as aforesaid (whether required to do so or not) knowingly makes any false statement or false representation he shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term of not more than four months or to both.

(6) The registrar shall report to the Appeal Court or to a judge thereof any case in which it appears to him that, although no application has been made for the purpose, legal aid ought to be granted to a person under this section.

(7) A solicitor or counsel assigned to a person under this section shall be entitled to be paid by the Secretary of State such sums in respect of fees and disbursements as may be prescribed by regulations made by the Lord Chancellor.

The power of the Lord Chancellor under this subsection to make regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) This section is hereby repealed as from the day appointed under section 106(5) of the Criminal Justice Act 1967 for the coming into force of Part IV of that Act (new provisions as to legal aid in criminal cases, including court-martial proceedings); and section 38(2) of the Interpretation Act 1889 shall apply to this repeal as if this section had been repealed by another Act.

52. Rules or regulations made under—

- (a) section 79 or 82 of the Naval Discipline Act ;
- (b) section 121 or 122 of the Army Act ;
- (c) section 121 or 122 of the Air Force Act ;
- (d) section 47 of the Prison Act 1952 ;
- (e) section 35 of the Prisons (Scotland) Act 1952 ; or
- (f) section 13 of the Prison Act (Northern Ireland) 1953,

Removal of prisoners.

1952 c. 52.

1952 c. 61.

1953 c. 18

(N.I.).

PART IV

may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for purposes of Part II or Part III of this Act or any place to which the Appeal Court or a judge of it may order him to be taken for the purpose of any proceedings of the Court.

Exclusion of appeals etc. in case of certain Commonwealth naval courts-martial.

53.—(1) Part II of this Act confers no right of appeal against the conviction by a naval court-martial of a person who, at the time of the conviction, was borne on the books of a ship of the Royal Australian Navy or the Royal New Zealand Navy, not being a ship which at that time was placed at the disposal of the Defence Council.

(2) Section 34 of this Act does not apply in the case of such a conviction as is mentioned in subsection (1) of this section.

Saving for prerogative.

54.—(1) Nothing in this Act is to be taken as affecting any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to quash a conviction by court-martial, so far as regards the exercise thereof at a time before whichever of the following two events first occurs—

(a) the receipt by the registrar of an application for leave to appeal under Part II of this Act against the conviction; or

(b) the receipt by him of particulars of such an application furnished in pursuance of section 9 of this Act.

(2) Nothing in this Act is to be taken as affecting Her Majesty's Royal prerogative of mercy.

Modification of provisions in Parts II and III for capital cases.

55. Schedule 2 to this Act has effect so as to modify certain provisions of this Act in relation to cases involving sentence of death; and any provision of this Act which is referred to in that Schedule and modified or restricted thereby shall have effect subject to the Schedule.

Modification for protected prisoners of war.
1957 c. 52.

56. Schedule 3 to this Act has effect so as to modify certain provisions of this Act in relation to protected prisoners of war within the meaning of the Geneva Conventions Act 1957; and any provision of this Act which is referred to in that Schedule and modified or restricted thereby shall have effect subject to the Schedule.

Interpretation.
1955 c. 19.

57.—(1) In this Act, unless the context otherwise requires,—
“the Air Force Act” means the Air Force Act 1955;
“air force court-martial” means a court-martial under the Air Force Act;

- “appellant”** includes a person who has been tried by court-martial and wishes to appeal under Part II of this Act to the Appeal Court ; PART IV
- “the Army Act”** means the Army Act 1955 ; 1955 c. 18.
- “army court-martial”** means a court-martial under the Army Act ;
- “court-martial”** means a naval, army or air force court-martial ;
- “enactment”** includes an enactment of the Parliament of Northern Ireland ;
- “the Judge Advocate General”** means the Advocate General or Judge Martial of all Her Majesty’s regular, auxiliary and reserve land and air forces ;
- “the Lord Chief Justice”** means the Lord Chief Justice of England ;
- “the Naval Discipline Act”** means the Naval Discipline Act 1957 ; 1957 c. 53.
- “naval court-martial”** means a court-martial under the Naval Discipline Act, and includes a disciplinary court ;
- “prescribed”** means prescribed by rules of court ; and
- “the registrar”** means the registrar of the Appeal Court.

(2) Where in connection with any proceedings or powers of the Appeal Court on appeal a provision of this Act refers to “the relevant Service Act”, it is to be taken as referring to the Act under which the appellant was tried by court-martial, that is to say the Naval Discipline Act, the Army Act or the Air Force Act, as the case may be.

(3) In Part III of this Act “the accused” means, in relation to an appeal from the Appeal Court to the House of Lords, the person who was the accused in the court-martial proceedings from which the appeal lay to the Appeal Court.

(4) Any reference in this Act to another enactment is a reference thereto as amended by or under any other enactment, including this Act.

(5) Any reference in this Act to an enactment of the Parliament of Northern Ireland includes a reference to an enactment corresponding thereto and for the time being in force in Northern Ireland.

58. The enactments specified in Schedule 4 to this Act shall be amended as shown in that Schedule. Consequential amendment of enactments.

59. The transitional provisions set out in Schedule 5 to this Act shall have effect. Transitional provisions.

60. The enactments specified in the second column of Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

O*

PART IV
Short title and
commence-
ment.
1967 c. 80.

61.—(1) This Act may be cited as the Courts-Martial (Appeals) Act 1968.

(2) This Act shall come into force on the day appointed under section 106(5) of the Criminal Justice Act 1967 for the coming into force of section 98 of that Act.

SCHEDULES

SCHEDULE 1

Section 20.

PROVISIONS AS TO RETRIAL

PART I

NAVY

1. On the retrial of any person under section 19 of this Act, the record of the evidence given by any witness at the original trial may, with the leave of the court-martial, be read as evidence—

- (a) by agreement between the prosecution and the defence ; or
- (b) if the court-martial is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or secure his attendance have been made without success or that owing to the exigencies of the service it is not practicable for him to attend as aforesaid,

and may be so read without further proof if it is produced from the custody of the Defence Council.

2. Where a person authorised to be retried is again convicted on the retrial, the court-martial by which he is convicted may pass in respect of the offence any sentence authorised by the Naval Discipline Act, not being a sentence of greater severity than that passed on the original conviction.

PART II

ARMY

3. On the retrial of a person under section 19 of this Act, the record of the evidence given by any witness at the original trial may, with the leave of the court-martial, be read as evidence—

- (a) by agreement between the prosecution and the defence ;
or
- (b) if the court-martial is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or secure his attendance have been made without success or that owing to the exigencies of the service it is not practicable for him to attend as aforesaid,

and may be so read without further proof if it forms part of the original proceedings of the original court-martial or a copy thereof and those proceedings are, or that copy is, admissible as evidence under section 200 of the Army Act.

4. Where a person authorised to be retried is again convicted on the retrial, the court-martial by which he is convicted may pass in respect of the offence any sentence authorised by the Army Act, not being a sentence of greater severity than that passed on the original conviction.

SCH. 1

PART III**AIR FORCE**

5. On the retrial of a person under section 19 of this Act, the record of the evidence given by any witness at the original trial may, with the leave of the court-martial, be read as evidence—

- (a) by agreement between the prosecution and the defence ; or
- (b) if the court-martial is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or secure his attendance have been made without success or that owing to the exigencies of the service it is not practicable for him to attend as aforesaid,

and may be so read without further proof if it forms part of the original proceedings of the original court-martial or a copy thereof and those proceedings are, or that copy is, admissible as evidence under section 200 of the Air Force Act.

6. Where a person authorised to be retried is again convicted on the retrial, the court-martial by which he is convicted may pass in respect of the offence any sentence authorised by the Air Force Act, not being a sentence of greater severity than that passed on the original conviction.

PART IV**PROVISION APPLYING TO ALL THREE SERVICES**

7. Where a person authorised under section 19 of this Act to be retried is convicted on retrial and sentenced to imprisonment or detention, there shall be taken into account in calculating the period for which he is liable to imprisonment or to be detained in pursuance of that sentence—

- (a) any time before the original conviction was quashed which would have been taken into account in calculating the period for which he would have been liable to be imprisoned or detained in pursuance of a sentence of imprisonment or detention imposed at the original trial ; and
- (b) any time after the quashing of his original conviction which he has spent under close arrest awaiting retrial.

Section 55.

SCHEDULE 2**PROCEDURAL AND OTHER MODIFICATIONS FOR CAPITAL CASES***Modifications of Part II*

1.—(1) In the case of a conviction involving sentence of death, the right of appeal conferred by section 8(1) of this Act on the person convicted shall be exercisable without his being required to present a petition to the Defence Council ; and accordingly in such a case subsection (2) of that section shall not apply.

(2) In the case of such a conviction, the power of the Appeal Court under section 9(3) of this Act to extend the period within which an application for leave to appeal must be lodged shall not be exercisable.

2.—(1) The following shall apply where a conviction by court-martial involves sentence of death.

SCH. 2

(2) The sentence shall not in any case be executed until the expiration of the period for appealing under Part II of this Act (that is to say the period prescribed under section 9 as the period within which an application for leave to appeal must be lodged).

(3) Subject to the following paragraph, if such an application is duly lodged, the sentence shall not be executed until either the application is finally refused, or it is withdrawn, or the appeal is determined or abandoned.

3.—(1) Where sentence of death passed on a person on active service by an army or air force court-martial is confirmed, and the authority confirming the sentence certifies that it is essential in the interests of discipline and for the purpose of securing the safety of the force with which that person is present that the sentence should be carried out forthwith, paragraph 2 above shall not apply to the sentence.

(2) In sub-paragraph (1) above the expression “on active service”—

(a) in relation to a person subject to military law, has the meaning assigned to it by section 224 of the Army Act; and

(b) in relation to a person subject to the Air Force Act, has the meaning assigned to it by section 222 of that Act;

and a person who is deemed for the purposes of either of those Acts to be on active service shall be deemed also for the purposes of this paragraph to be on active service.

4. Any appeal to the Appeal Court against a conviction involving sentence of death and any application for leave to appeal to the Court against any such conviction shall be heard and determined with as much expedition as practicable.

5. The Appeal Court shall not have power, by virtue of section 22 of this Act, to impose sentence of death; and where apart from this paragraph a sentence of death would be required by law, the sentence shall (whatever the circumstances) be one of imprisonment for life.

Modifications of Part III

6. In a case involving sentence of death the power of the House of Lords or the Court under section 40 of this Act to extend the time within which an application by the accused for leave to appeal may be made under that section shall not be exercisable.

7.—(1) Where, in a case involving sentence of death, an appeal to the Appeal Court is dismissed, the sentence shall not in any case be executed until after the expiration of the time within which an application for leave to appeal to the House of Lords may be made; and, if such an application is duly made, the sentence shall not be executed while that application, and any appeal for which leave is granted thereon, is pending.

SCH. 2

(2) In such a case, any application for leave to appeal to the House of Lords and any appeal for which leave is granted on such an application, shall be heard and determined with as much expedition as is practicable.

Section 56.

SCHEDULE 3

MODIFICATIONS IN RELATION TO PRISONERS OF WAR

1957 c. 52.

1. In this Schedule "protected prisoner of war" means a person protected by the convention set out in Schedule 3 to the Geneva Conventions Act 1957; and "Royal Warrant" means a Royal Warrant governing the maintenance of discipline among prisoners of war.

2. In relation to a protected prisoner of war, this Act shall have effect as if the expression "army court-martial" included a prisoner of war court-martial constituted under a Royal Warrant.

3. In relation to a protected prisoner of war this Act shall have effect as if a reference to a Royal Warrant were substituted—

- (a) for any reference in sections 13, 14 or 15 to the relevant Service Act;
- (b) for the reference in section 16(2) to the relevant Service enactment;
- (c) for the reference in section 17(2)(b) to the Army Act; and
- (d) for the reference in section 37(2) to the enactment relating to the revision of the finding or sentence of an army court-martial.

4. Paragraph 3(1) of Schedule 2 to this Act shall not have effect in relation to a protected prisoner of war.

Section 58.

SCHEDULE 4

CONSEQUENTIAL AMENDMENT OF ENACTMENTS

THE ARMY ACT 1955 (c. 18)

Section 113.

In subsection (3), for the words "paragraph (b) of subsection (3) of section 4 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 9(4)(b) of the Courts-Martial (Appeals) Act 1968".

After section 113 there shall be inserted the following section :—

"Power of reviewing authority to authorise retrial. 113A.—(1) The following provisions of the Courts-Martial (Appeals) Act 1968, that is to say,—
section 19,
section 20, and
Parts II and IV of Schedule 1,

(power of Courts-Martial Appeal Court to authorise retrial and supplementary provisions applicable when the power is exercised) shall apply with any necessary modifications in relation to the review by Her Majesty or the Defence Council under section 113 of this Act of the findings of a court-martial, as they apply in relation to an appeal to the Courts-Martial Appeal Court.

(2) Any document purporting to be an order or direction made or given by virtue of the foregoing subsection by the Defence Council shall be evidence of the making of the order or the giving of the direction, as the case may be, and of its contents."

Section 118

In subsection (1), for the words "subsection (7) of section 4 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 11(2) of the Courts-Martial (Appeals) Act 1968".

Section 138

In subsection (9), for the words (in paragraph (a)) "Part I of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "Part II of the Courts-Martial (Appeals) Act 1968"; and for the words (in paragraph (e)) "the said Act of 1951" there shall be substituted the words "Part II of the said Act of 1968".

THE AIR FORCE ACT 1955 (c. 19)

Section 113

In subsection (3), for the words "paragraph (b) of subsection (3) of section 4 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 9(4)(b) of the Courts-Martial (Appeals) Act 1968".

After section 113 there shall be inserted the following section :—

"Power of reviewing authority to authorise retrial. 113A.—(1) The following provisions of the Courts-Martial (Appeals) Act 1968, that is to say,—
section 19,
section 20, and
Parts III and IV of Schedule 1,

(power of Courts-Martial Appeal Court to authorise retrial and supplementary provisions applicable when the power is exercised) shall apply with any necessary modifications in relation to the review by Her Majesty or the Defence Council under section 113 of this Act of the findings of a court-martial, as they apply in relation to an appeal to the Courts-Martial Appeal Court.

(2) Any document purporting to be an order or direction made or given by virtue of the foregoing subsection by the Defence Council shall be evidence of the making of the order or the giving of the direction, as the case may be, and of its contents."

SCH. 4 Section 118

In subsection (1), for the words "subsection (7) of section 4 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 11(2) of the Courts-Martial (Appeals) Act 1968".

Section 138

In subsection (9), for the words (in paragraph (a)) "Part I of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "Part II of the Courts-Martial (Appeals) Act 1968"; and for the words (in paragraph (e)) "the said Act of 1951" there shall be substituted the words "Part II of the said Act of 1968".

THE NAVAL DISCIPLINE ACT 1957 (c. 53)**Section 70**

In subsection (3), for the words "paragraph (b) of subsection (3) of section 4 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 9(4)(b) of the Courts-Martial (Appeals) Act 1968".

Section 71

At the end of the section there shall be inserted the following section—

"Power to authorise retrial. 71A.—(1) The following provisions of the Courts-Martial (Appeals) Act 1968, that is to say,—
 section 19,
 section 20, and
 Parts I and IV of Schedule 1,

(power of Courts-Martial Appeal Court to authorise retrial and supplementary provisions applicable when the power is exercised) shall apply with any necessary modifications in relation to the review by the Defence Council under section 70 of this Act of the findings of a court-martial as they apply in relation to an appeal to the Courts-Martial Appeal Court.

(2) Any document purporting to be an order or direction made or given by virtue of the foregoing subsection by the Defence Council shall be evidence of the making of the order or the giving of the direction, as the case may be, and of its contents."

Section 77

In subsection (1), for the words (in paragraph (a)) "Part I of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "Part II of the Courts-Martial (Appeals) Act 1968".

In subsection (3), for the words "the said Act of 1951" there shall be substituted the words "Part II of the said Act of 1968".

Section 85

In subsection (1), for the words "subsection (7) of section 4 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 11(2) of the Courts-Martial (Appeals) Act 1968".

THE MENTAL HEALTH ACT 1959 (c. 72)

SCH. 4

Section 71

In subsection (3), for the words "subsection (4) of section 6 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 16 of the Courts-Martial (Appeals) Act 1968".

THE MENTAL HEALTH (SCOTLAND) ACT 1960 (c. 61)

Section 64

In subsection (2), for the words "subsection (4) of section 6 of the Courts-Martial (Appeals) Act 1951" there shall be substituted the words "section 16 of the Courts-Martial (Appeals) Act 1968".

THE MENTAL HEALTH ACT (NORTHERN IRELAND) 1961 (c. 15)

Section 57

In subsection (1), for paragraph (a) there shall be substituted the following paragraph—

"(a) section 16 of the Courts-Martial (Appeals) Act 1968".

SCHEDULE 5

Section 59.

TRANSITIONAL PROVISIONS

1.—(1) Any right of appeal subsisting immediately before the commencement of this Act by virtue of an enactment repealed thereby shall after that commencement be treated as subsisting by virtue of the corresponding enactment in this Act.

(2) Any appeal or application pending before the said commencement under an enactment so repealed may be presented and disposed of in accordance with the provisions of this Act corresponding to those in force immediately before the said commencement and applicable to the appeal or application.

2.—(1) In so far as any order, appointment, rule or regulation made, petition presented, direction given or other thing done under an enactment repealed by this Act could have been made, presented, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made, presented, given or done under that corresponding provision.

(2) Any document referring to an enactment repealed by this Act shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.

3. The mention of particular matters in this Schedule shall not be taken to affect the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals.

Section 60.

SCHEDULE 6**REPEALS**

| Chapter | Short Title | Extent of Repeal |
|---------------------------|--|---|
| 14 & 15 Geo. 6. c. 46. | The Courts-Martial (Appeals) Act 1951. | Part I (that is to say, sections 1 to 27). |
| 3 & 4 Eliz. 2. c. 20. | The Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955. | In Schedule 2, paragraph 15(2) to (5). |
| 5 & 6 Eliz. 2. c. 52. | The Geneva Conventions Act 1957. | Section 4(3). |
| 5 & 6 Eliz. 2. c. 53. | The Naval Discipline Act 1957. | In Schedule 5, the entry relating to the Courts-Martial (Appeals) Act 1951. |
| 8 & 9 Eliz. 2. c. 65. | The Administration of Justice Act 1960. | Section 10; in section 20(2) the words from the beginning to "such appeals"; Schedule 1 and so much of Schedule 3 as amends the Courts-Martial (Appeals) Act 1951. |
| 9 & 10 Eliz. 2. c. 52. | The Army and Air Force Act 1961. | In Schedule 2, the entry relating to the Courts-Martial (Appeals) Act 1951. |
| 1964 c. 43. | The Criminal Appeal Act 1964. | Section 4; section 6(3) and, in section 6(5) the words "except so far as it relates to appeals from and retrials by courts-martial"; Schedule 1; and so much of Schedule 2 as amends the Courts-Martial (Appeals) Act 1951. |
| 1964 c. 84. | The Criminal Procedure (Insanity) Act 1964. | In section 7, the references to the Courts-Martial (Appeals) Act 1951 and Part III of Schedule 2 to the Act; and Part III of that Schedule. |
| 1966 c. 31. | The Criminal Appeal Act 1966. | Section 9(1); in section 12(2) the definition of "the 1951 Act"; section 12(4); in section 12(7) the words "appeals from, and"; and Part I of Schedule 1. |
| 1967 c. 80. | The Criminal Justice Act 1967. | In Schedule 4, paragraphs 16 to 19, 31, 32 and 40. |



Criminal Appeal (Northern Ireland) Act 1968

1968 CHAPTER 21

An Act to consolidate the enactments relating to the Court of Criminal Appeal in Northern Ireland, the jurisdiction of the Court and appeals therefrom to the House of Lords. [8th May 1968]

BE IT ENACTED by the Queen'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

THE COURT OF CRIMINAL APPEAL

1.—(1) The Court of Criminal Appeal in Northern Ireland The Court, constituted by the Criminal Appeal (Northern Ireland) Act 1930 1930 c. 45. shall continue in existence with the same jurisdiction as heretofore, and is in this Act referred to either as “the Court of Criminal Appeal” or as “the Court”.

(2) All the judges of the Supreme Court shall be judges of the Court.

(3) The Court shall be a superior court of record and shall, for the purposes and subject to the provisions of this Act, have full power to determine, in accordance with this Act, any question necessary to be determined for the purpose of doing justice in the case before the Court.

(4) Except as provided by this Act, the determination by the Court of any appeal or other matter which they have power to determine shall be final and no appeal shall lie from the Court to any other court.

PART I
Sittings.

2.—(1) For the purpose of hearing and determining appeals, or any matter preliminary or incidental to an appeal, the Court of Criminal Appeal shall be summoned in accordance with directions given by the Lord Chief Justice and shall sit in Belfast except in cases where the Lord Chief Justice gives special directions that it shall sit at some other place.

(2) Provision shall be made by rules of court for securing sittings of the court, if necessary, during vacation.

Assistance for
transaction of
business of
the Court.

3.—(1) Any such person as follows, namely,—

(a) a person who, not being a judge of the Court of Appeal or the High Court, has held the office of a judge of either of those courts ;

(b) a person who, neither being a judge of the Court of Appeal or the High Court nor having held the office of a judge of either of those courts, holds or has held the office of a Lord of Appeal in Ordinary and, on his appointment to that office, was qualified for appointment as a judge of the High Court or the Court of Appeal,

may at any time, at the request of the Lord Chief Justice, sit and act as a judge of the Court of Criminal Appeal.

(2) Every person while sitting and acting under this section shall have all the jurisdiction, powers and privileges of a judge of the Court of Criminal Appeal, but shall not otherwise be deemed to be a judge of the Court or to have ceased to be a member of any other tribunal of which he is a member.

(3) A person who has sat and acted under this section shall, although the period has expired during which he was requested so to sit and act, attend the sittings of the Court for the purpose of giving judgment in, or otherwise acting in relation to, any case heard by the Court while he so sat and acted.

(4) For any period during which a person (other than one holding office as a Lord of Appeal in Ordinary) sits and acts under this section there may be paid to him, out of moneys provided by Parliament, such remuneration and allowances as the Treasury may, after consultation with the Lord Chief Justice, determine.

Constitution
of the Court
for hearing
appeals.

4.—(1) Subject to the provisions of this section and the section next following, the Court of Criminal Appeal shall be duly constituted, for the purpose of hearing and determining appeals or any matter preliminary or incidental to an appeal, if it consists either of two or of three judges.

(2) Any matter preliminary or incidental to an appeal may be heard and determined by a single judge of the Court ; but an appellant who is aggrieved by the decision of a single judge

on any such matter shall be entitled to have the matter re-heard and determined by the Court as constituted under subsection (1) of this section.

PART I

(3) The Lord Chief Justice, if present, and in his absence the senior member of the Court, shall be president of the Court.

5.—(1) Where an appeal or matter before the Court of Judgment. Criminal Appeal is heard by two judges and those judges differ in opinion, it shall be re-heard by three judges; and where an appeal or matter before the Court is heard by three judges, it shall be determined according to the opinion of the majority of those judges.

(2) Unless the Court direct to the contrary in a case where they consider the question to be one of law on which it would be convenient that separate judgments should be pronounced by the members of the Court,—

- (a) the judgment of the Court shall be pronounced by the president of the Court or such other member of the Court hearing the case as the president directs; and
- (b) no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court.

6.—(1) The Registrar of the Supreme Court shall be the The Registrar. registrar of the Court of Criminal Appeal and is in this Act referred to as “the Registrar”.

(2) The Lord Chief Justice may direct any other officer of, or attached to, the Supreme Court to render such assistance to the Registrar as the Lord Chief Justice may think necessary for the purposes of this Act.

(3) In the event of a vacancy in the office of the Registrar, or of the incapacity of the Registrar to act from any reason, the Lord Chief Justice may direct another officer of the Supreme Court to exercise the powers and perform the duties of the Registrar under this Act.

7. Any direction which may be given by the Lord Chief Functions of Justice under the preceding sections may, in the event of any Lord Chief vacancy in that office or in the event of the incapacity of the Justice under the Lord Chief Justice to act from any reason, be given by the senior ss. 1 to 6. judge of the Court of Criminal Appeal.

PART II

APPEALS TO COURT OF CRIMINAL APPEAL

Appeal against conviction and sentence

Right of
appeal.

8.—(1) A person convicted on indictment may appeal to the Court of Criminal Appeal against his conviction—

(a) on any ground which involves a question of law alone ;
and

(b) with the leave of the Court, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court to be a sufficient ground of appeal ;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or of mixed law and fact, an appeal lies under this subsection without the leave of the Court of Criminal Appeal.

(2) A person convicted on indictment may appeal to the Court of Criminal Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law ; but an appeal under this subsection lies only with the leave of the Court of Criminal Appeal.

Grounds for
allowing
appeal against
conviction.

9.—(1) Except as provided by this Act, the Court of Criminal Appeal shall allow an appeal against conviction where they are of opinion—

(a) that the verdict of the jury should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory ; or

(b) that the judgment of the court of trial should be set aside on the ground of a wrong decision of any question of law ; or

(c) that there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal :

Provided that the Court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no miscarriage of justice has actually occurred.

(2) Except as provided by this Act, if the Court of Criminal Appeal allow an appeal against conviction, they shall quash the conviction.

(3) An order of the Court quashing a conviction shall, except when under section 13 of this Act the appellant is ordered to be retried, operate as a direction to the clerk of the Crown and peace

acting for the court of trial to enter, instead of the record of conviction, a judgment and verdict of acquittal. PART II

10.—(1) This section applies where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Criminal Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence. Power to substitute conviction of alternative offence.

(2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

11. Where a person appeals against conviction on an indictment containing two or more counts and the Court of Criminal Appeal allow the appeal in respect of part of the indictment, they may in respect of any count on which he remains convicted pass such sentence, in substitution for the sentence passed thereon at the trial, as they think proper and is authorised by law for the offence of which he remains convicted on that count. Sentence when appeal allowed on part of an indictment.

12.—(1) This section applies on an appeal against conviction where the jury have found a special verdict. Appeal on special verdict.

(2) If the Court of Criminal Appeal consider that a wrong conclusion has been arrived at by the court of trial as to the effect of the jury's verdict, they may, instead of allowing the appeal, order such conclusion to be recorded as appears to them to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the verdict so substituted.

New trial

13.—(1) Where an appeal against conviction is allowed by the Court of Criminal Appeal under section 9 of this Act and it appears to the Court that the interests of justice so require, the Court, upon quashing the conviction and any sentence passed thereon, may order the appellant to be retried. Power to order new trial.

(2) Where, on an appeal to the Court of Criminal Appeal against a sentence imposed upon conviction on indictment, it appears to the Court that there has been a mistrial of the indictment, the Court may quash the conviction and sentence and may, if it appears to the Court that the interests of justice so require, order the appellant to be retried.

PART II

(3) An appellant shall not be retried by virtue of this section for any offence other than—

- (a) the offence of which he was convicted at the original trial ;
- (b) any offence of which he could have been convicted at the original trial on an indictment for the first-mentioned offence ;
- (c) any offence charged in an alternative count of the indictment in respect of which the jury were discharged from giving a verdict in consequence of that conviction.

Supplementary provisions as to new trial.

14.—(1) An appellant who is to be retried for an offence in pursuance of an order under section 13 of this Act shall be tried upon a fresh indictment preferred by the direction of the Court of Criminal Appeal and shall be tried before such court as the Court of Criminal Appeal may direct (being a court of assize or, if the offence is within the jurisdiction of a county court, a county court) or, if no such direction is given, before any court having jurisdiction to try an indictment for the offence for which he was originally tried.

(2) The Court of Criminal Appeal may, upon ordering a retrial under section 13 of this Act, make such orders as appear to them to be necessary or expedient for the custody or admission to bail of the appellant pending the retrial, or for the retention pending the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

The powers of a single judge of the Court of Criminal Appeal under section 4(2) of this Act to hear and determine any matter incidental to an appeal shall include power to make, discharge and vary orders under this subsection.

(3) Where a retrial is ordered under section 13 of this Act in the case of a person who, immediately before the determination of his appeal, was liable to be detained in pursuance of an order or direction under Part III of the Mental Health Act (Northern Ireland) 1961, that order or direction shall continue in force pending the retrial as if the appeal had not been allowed, and any order made by the Court of Criminal Appeal under this section for his custody or admission to bail shall have effect subject to the order or direction under the said Part III.

1961 c. 15
(N.I.).

(4) Schedule 1 to this Act has effect with respect to legal aid for a person ordered under section 13 of this Act to be retried, his retrial, and the sentence which may be passed if the retrial results in his conviction.

Sentence

PART II

15. On an appeal to them against conviction or sentence the Court of Criminal Appeal shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial and pass such other sentence authorised by law (whether more or less severe) in substitution therefor as they think ought to have been passed; but in no case shall any sentence be increased by reason or in consideration of any evidence that was not given at the trial.

Alteration of sentence on appeal.

Insanity

16. If, on an appeal, it appears to the Court of Criminal Appeal that, although the appellant did the act or made the omission charged against him, he was an insane person at the time the act was done or the omission made, the Court may—

Appeal against conviction: finding of insanity substituted.

(a) quash the conviction and direct that a finding of not guilty on the ground of insanity be entered; and

(b) quash the sentence passed at the trial and make any such order as may be made under section 56 of the Mental Health Act (Northern Ireland) 1961 (admission to hospital of persons found not guilty by reason of insanity).

1961 c. 15 (N.I.).

17.—(1) A person in whose case a finding is recorded under section 56(2) of the Mental Health Act (Northern Ireland) 1961 that he was not guilty of the offence charged on the ground of insanity may appeal against that finding to the Court of Criminal Appeal—

Appeal against finding of not guilty on ground of insanity.

(a) on any ground of appeal which involves a question of law alone; and

(b) with the leave of the Court, on any ground of appeal which involves a question of fact alone or a question of mixed law and fact, or any other ground which appears to the court to be a sufficient ground of appeal;

but if the judge of the court of trial grants a certificate that the case is fit for appeal on a ground which involves a question of fact, or of mixed law and fact, an appeal lies under this section without the leave of the Court of Criminal Appeal.

(2) The Court of Criminal Appeal, on an appeal under this section, shall (subject to subsections (3) and (4) below) allow the appeal where they are of opinion—

(a) that the finding should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory; or

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(b) that any order made by the court of trial upon, or giving effect to, the finding should be set aside on the ground of a wrong decision of any question of law ;
or

(c) that there was a material irregularity in the course of trial,

and in any other case shall dismiss the appeal.

(3) The Court may dismiss an appeal under this section if of opinion that notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.

(4) Where but for this subsection—

(a) an appeal under this section would fall to be allowed ;
and

(b) none of the grounds for allowing it relates to the question of the insanity of the appellant,

the Court may dismiss the appeal if of opinion that but for the insanity of the accused the proper verdict would have been that he was guilty of an offence other than the offence charged.

Disposal of
appeal allowed
under s. 17.

18.—(1) The following provisions apply where an appeal under section 17 of this Act is allowed in accordance with that section.

(2) If the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand, but the Court of Criminal Appeal are of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could have found him guilty), the Court—

(a) shall substitute for the finding of not guilty on the ground of insanity a verdict of guilty of that offence ;
and

(b) subject to subsection (3) below, shall have the like powers of punishing or otherwise dealing with the appellant and all other powers as the court of trial would have had if the jury had returned that verdict.

(3) Where the offence mentioned in subsection (2) above is one for which the sentence fixed by law is one of death or of imprisonment for life, the sentence shall (whatever the circumstances) be one of imprisonment for life.

(4) In a case where the Court of Criminal Appeal allow an appeal under section 17 above but subsection (2) of this

section does not apply, the Court shall substitute for the finding of the jury a verdict of acquittal.

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(5) An order of the Court allowing an appeal under section 17 of this Act shall operate as a direction to the clerk of the Crown and peace acting for that court of trial to amend the record to conform with the order.

(6) Where in accordance with subsection (4) of this section the Court of Criminal Appeal substitute a verdict of acquittal for a finding of not guilty on the ground of insanity, any order previously made in consequence of that finding under section 56(3) of the Mental Health Act (Northern Ireland) 1961 shall cease to have effect, so however that if the Court are of opinion—

1961 c. 15
(N.I.)

- (a) that the appellant is suffering from mental illness or that he requires special care or is suffering from mental disorder of a nature or degree which warrants his detention in a hospital under section 12 of the said Act of 1961; and
 - (b) that he ought to be so detained in the interests of his own health or safety or for the protection of other persons,
- the Court may make an order that he be detained in any hospital in which he was detained by virtue of an order under the said section 56(3); and Schedule 2 to this Act shall apply as to the consequences and effect of an order made by the Court under this subsection.

Review of cases by Court of Criminal Appeal

19.—(1) Where a person has been convicted on indictment or, being charged on indictment with an offence, has been found not guilty on the ground of insanity, the Minister may, if he thinks fit,—

Reference by
Minister of
Home Affairs.

- (a) refer the whole case to the Court of Criminal Appeal and the case shall then be treated for all purposes as an appeal to the Court by that person; or
- (b) if he desires the assistance of the Court on any point arising in the case, refer that point to the Court for their opinion thereon, and the Court shall consider the point so referred and furnish the Minister with their opinion thereon accordingly.

(2) The Minister's power of reference under this section shall be exercisable at any time, and whether or not there has been an appeal or an application for leave to appeal.

Procedure

20.—(1) Subject to subsection (2) below, a person who wishes to appeal to the Court of Criminal Appeal, or to obtain the Court's leave to appeal, shall give notice of appeal, or of his

Notice of
appeal or
application
for leave.

PART II

application for leave to appeal, in the prescribed manner within twenty-eight days from the date of the conviction, verdict or finding appealed against or, in the case of an appeal or application for leave to appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.

(2) Subject to section 21 below, the time for giving notice of appeal or of application for leave to appeal may be extended at any time by the Court of Criminal Appeal.

(3) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal, or notices of application under this Act, to any person who demands them, and to officers of courts, governors of prisons and such other persons as he thinks fit; and governors of prisons shall—

- (a) cause the forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Act; and
- (b) cause any such notice given by a prisoner in custody to be forwarded on behalf of the prisoner to the Registrar.

Special provision as to sentence of death or corporal punishment.

21.—(1) The power of the Court of Criminal Appeal under section 20 of this Act to extend the time for giving notice of appeal, or of application for leave to appeal, shall not be exercisable in the case of a conviction involving sentence of death.

(2) In the case of a conviction involving sentence of death or corporal punishment—

- (a) the sentence shall not in any case be executed until after the expiration of the time for giving notice of appeal or of application for leave to appeal under the said section 20; and
- (b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal or, in a case where an application for leave to appeal is finally refused, of the application.

Bail.

22. The Court of Criminal Appeal may, if they think fit, on the application of an appellant, admit him to bail pending the determination of his appeal.

Presentation of appellant's case.

23.—(1) Provision shall be made by rules of court for enabling an appellant under this Part of this Act to present his case and his argument in writing, instead of by oral argument, if he so desires; and any case or argument so presented shall be considered by the Court of Criminal Appeal.

(2) The Court may at any time, when it appears to them in the case of an appeal or proceedings preliminary or incidental thereto that it is desirable in the interests of justice that the appellant should have legal aid and that he has not sufficient means to enable him to obtain that aid, assign to the appellant a solicitor and counsel, or counsel only, in the appeal or proceedings.

(3) If on a question of granting a person free legal aid under this section there is a doubt whether his means are sufficient to enable him to obtain legal aid or whether it is desirable in the interests of justice that he should have free legal aid, the doubt shall be resolved in favour of granting him free legal aid.

(4) The Registrar shall report to the Court or a judge thereof any case in which it appears to him that, although no application has been made for the purpose, a solicitor and counsel, or counsel only, ought to be assigned to an appellant under the powers conferred on the Court by this section.

24.—(1) The Registrar shall take all necessary steps for obtaining a hearing of any appeal or application to the Court of Criminal Appeal under this Act, notice of which is given to him thereunder, and shall obtain and lay before the Court in proper form all documents, exhibits and other things relating to the proceedings in the court of trial which appear necessary for the proper determination of the appeal or application.

Duties of registrar with respect to appeals.

(2) If it appears to the Registrar that a notice of appeal under this Part of this Act purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, he may refer the appeal to the Court for summary determination; and the Court may then, if they consider that the appeal is frivolous or vexatious, and can be determined without adjourning the proceedings for a full hearing, dismiss the appeal summarily without calling on any one to attend the hearing or to appear for the Crown thereon.

Transcripts, documents, etc.

25.—(1) Rules of court may provide—

Transcripts.

- (a) for the making of a record (whether by means of shorthand notes, by mechanical means or otherwise) of any proceedings in respect of which an appeal lies (with or without leave) to the Court of Criminal Appeal; and
- (b) for the making and verification of a transcript of any such record and for supplying the transcript, on payment of such charge, if any, as may be fixed for the time being by the Treasury, to the Registrar for the use of the Court or any judge thereof, and to such other persons and in such circumstances as may be prescribed by the rules.

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(2) Without prejudice to subsection (1) above, the Minister may, if he thinks fit in any case, direct that a transcript shall be made of any such record made in pursuance of the rules and shall be supplied to him.

(3) The cost—

- (a) of making any such record in pursuance of the rules ; and
- (b) of making and supplying in pursuance of this section any transcript ordered to be supplied to the Registrar or the Minister,

shall be defrayed, in accordance with scales of payment fixed for the time being by the Treasury, out of moneys provided by Parliament, and the cost of providing and installing at any court any equipment required for the purpose of making any such record or transcript shall also be defrayed out of moneys so provided.

Trial documents, etc.

26. Any documents, exhibits or other things connected with the proceedings on a trial on indictment shall be kept in the custody of the court of trial, in accordance with such provisions as may be prescribed, for such time as may be prescribed and subject to such power as may be prescribed for the conditional release of any such documents, exhibits or things from that custody.

Judge's notes and report.

27. In the case of an appeal under this Part of this Act, or an application for leave to appeal thereunder, the judge of the court of trial shall furnish to the Registrar in the prescribed manner his notes of the trial and a report giving his opinion upon the case or any point arising in it.

The hearing

Right of appellant to be present.

28.—(1) Except as provided by this section, an appellant shall be entitled to be present, if he desires it, on the hearing of his appeal, although he may be in custody.

(2) A person in custody shall not be entitled to be present—

- (a) where the appeal is on some ground involving a question of law alone ; or
- (b) on any proceedings preliminary or incidental to an appeal,

unless rules of court provide that he is to be so entitled or the Court of Criminal Appeal give him leave to be present ; nor shall he be so entitled where he is in custody in consequence of a finding of not guilty on the ground of insanity.

(3) The power of the Court to pass sentence may be exercised notwithstanding that the appellant is for any reason not present.

29.—(1) For the purposes of this Part of this Act, the Court of Criminal Appeal may, if they think it necessary or expedient in the interests of justice—

PART II
Evidence.

- (a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case ;
- (b) order any witness who would have been a compellable witness at the trial to attend and be examined before the Court, whether or not he was called at the trial ; and
- (c) subject to subsection (3) below, receive the evidence, if tendered, of any witness.

(2) Without prejudice to subsection (1) above, where evidence is tendered to the Court under that subsection the Court shall, unless they are satisfied that the evidence if received would not afford any ground for allowing the appeal, exercise their power of receiving it if—

- (a) it appears to them that the evidence is likely to be credible and would have been admissible at the trial on an issue which is the subject of the appeal ; and
- (b) they are satisfied that it was not adduced at the trial but there is a reasonable explanation for the failure to adduce it.

(3) Subsection (1)(c) above applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given at the trial except on such an application.

30.—(1) For the purposes of this Part of this Act, the Court of Criminal Appeal may exercise any of the following powers, where they think it necessary or expedient in the interests of justice:—

Additional
powers of
Court.

- (a) in the case of any witness whose attendance might be required under section 29(1)(b) above, they may order his examination to be conducted in the prescribed manner before a judge of the Court or before any other person appointed by the Court for the purpose, and allow the admission of any deposition so taken as evidence before the Court ;
- (b) where a question arising on an appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Court conveniently be conducted before them, they may order the reference of the

PART II

question in the prescribed manner for inquiry and report to a special commissioner appointed by the Court, and act upon the report of the commissioner so far as they think fit to adopt it ;

- (c) they may appoint a person with special expert knowledge to act as assessor to the Court in a case where it appears to them that such knowledge is required for the proper determination of the case.

(2) The Court may, in relation to their proceedings, exercise any other powers which may for the time being be exercised by the Court of Appeal on appeals in civil matters, and may issue any warrants necessary for enforcing the orders or sentences of the Court.

Supplementary

Restitution of property.

1894 c. 71
(56 & 57 Vict.).

31.—(1) Except as provided by this section the operation of an order made on a conviction on indictment for the restitution of property to any person, and the operation in case of any such conviction of section 24(1) of the Sale of Goods Act 1893 as to the revesting of property in stolen goods on conviction, shall be suspended—

- (a) in any case until the expiration of twenty-eight days from the date of conviction ; and
- (b) in cases where notice of appeal or of application for leave to appeal is given within twenty-eight days from the date of conviction, until the determination of the appeal.

(2) Subsection (1) of this section shall not apply where the court of trial direct to the contrary in the case of any order, the title to the property in question not being, in their opinion, in dispute.

(3) In cases where the operation of any such order or of the said section 24(1) is suspended until the determination of the appeal, the order or that subsection, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal.

(4) Provision may be made by rules of court for securing the safe custody of any property pending the suspension of the operation of any such order or of the said section 24(1).

(5) The Court of Criminal Appeal may by order annul or vary an order made on a trial for the restitution of property to any person, although the conviction is not quashed ; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

32.—(1) Except as provided by any enactment of the Parliament of Northern Ireland, no costs shall be allowed on the hearing and determination of an appeal under this part of this Act, or of proceedings preliminary or incidental to such an appeal. PART II
Costs.

(2) The following expenses shall be defrayed, up to an amount allowed by the Court of Criminal Appeal, by the Ministry:—

- (a) the expenses of any solicitor or counsel assigned to an appellant under this Part of this Act;
- (b) the expenses of any witnesses attending on the order of the Court of Criminal Appeal, or examined in any proceedings incidental to the appeal;
- (c) the expenses of the appearance of an appellant on the hearing of his appeal, or in proceedings preliminary or incidental thereto;
- (d) all expenses of or incidental to any examination of witnesses conducted by a person appointed by the Court for the purpose; and
- (e) all expenses of or incidental to any reference of a question to a special commissioner appointed by the Court, or of any person appointed as assessor to the Court.

33.—(1) The time during which an appellant, pending the determination of his appeal, is not detained in custody shall not count as part of any term of imprisonment under his sentence. Computation
of sentence.

(2) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Criminal Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject; but the Court shall not give any such direction where leave to appeal has been granted or a certificate has been given under section 8 of this Act, or where the case has been referred to them under section 19 of this Act.

(3) When the Court give a direction under subsection (2) of this section, they shall state their reasons for giving it.

(4) The term of any sentence passed by the Court in the exercise of their powers under section 18(2) of this Act shall, unless the Court otherwise direct, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

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Appeal in cases otherwise than on indictment, 1950 c. 5 (N.I.).

34. This Part of this Act shall apply to the case of a parent or guardian subject to an order made by a court of assize or a county court under section 57 of the Children and Young Persons Act (Northern Ireland) 1950, as if he had been tried and convicted on indictment and the order had been a sentence passed on the conviction.

Interpretation for Part II.

35. In this Part of this Act, unless the context otherwise requires,—

“appellant” includes a person who has given notice of application for leave to appeal ;

“the court of trial” means, in relation to an appeal, the court from which the appeal lies ;

“insane person” has the meaning given to it by section 1 of the Criminal Justice Act (Northern Ireland) 1966, and “insanity” shall be construed accordingly ; and

“sentence” includes any order of the court of trial made on conviction with reference to the person convicted or his wife or children, and any recommendation of that court as to the making of a deportation order in the case of a person convicted ;

and a power of the Court of Criminal Appeal to pass sentence includes power to make any such order or recommendation which could lawfully have been made by the court of trial.

1966 c. 20 (N.I.).

PART III**APPEAL FROM COURT OF CRIMINAL APPEAL TO HOUSE OF LORDS***The appeal*

Right of appeal to House of Lords.

36.—(1) Subject to the provisions of this Part of this Act, an appeal lies to the House of Lords, at the instance of the defendant or the prosecutor, from any decision of the Court of Criminal Appeal on an appeal to that Court.

(2) No appeal lies under this Part of this Act except with the leave of the Court of Criminal Appeal or of the House of Lords ; and such leave shall not be granted unless it is certified by the Court that a point of law of general public importance is involved in the decision and it appears to the Court or to the House of Lords (as the case may be) that the point is one which ought to be considered by that House.

(3) In this Part of this Act “the defendant” means, in relation to an appeal, the person who was the appellant before the Court of Criminal Appeal, and references to the prosecutor shall be construed accordingly.

37.—(1) Subject to subsection (2) below, an application to the Court of Criminal Appeal for leave to appeal under this Part of this Act shall be made within the period of fourteen days beginning with the date of the decision of the Court; and an application to the House of Lords for such leave shall be made within the period of fourteen days beginning with the date on which the application is refused by the Court.

PART III
Application for leave to appeal.

(2) Subject to section 39 below, the House of Lords or the Court of Criminal Appeal may, upon application made at any time by the defendant, extend the time within which an application may be made by him to that House or the Court under subsection (1) above.

(3) An appeal under this Part of this Act shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for the purposes of this Part of this Act an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

38.—(1) An appeal under this Part of this Act shall not be heard and determined by the House of Lords unless there are present at least three of the persons designated Lords of Appeal by section 5 of the Appellate Jurisdiction Act 1876.

Hearing and disposal of appeal.
1876 c. 59.

(2) Any order of the House of Lords which provides for the hearing of applications for leave to appeal under this Part of this Act by a committee constituted in accordance with section 5 of the said Act of 1876 may direct that the decision of that committee shall be taken on behalf of the House.

(3) For the purpose of disposing of an appeal under this Part of this Act, the House of Lords may exercise any powers of the Court of Criminal Appeal or may remit the case to the Court.

39.—(1) In a case involving sentence of death—

(a) the power of the Court of Criminal Appeal or the House of Lords under section 37 of this Act to extend the time for making an application for leave to appeal shall not be exercisable; and

(b) an application for leave to appeal under this Part of this Act, and any appeal for which leave is granted on the application, shall be heard and determined with as much expedition as practicable.

Special provision for capital cases.

(2) Where an appeal to the Court of Criminal Appeal is dismissed in a case involving sentence of death, the sentence shall not in any case be executed until after the expiration of the time for making an application for leave to appeal under this

PART III Part of this Act; and if such an application is duly made, the sentence shall not be executed while that application, and any appeal for which leave to appeal is granted thereon, is pending.

Preliminary proceedings

Bail on appeal by accused. 40. The Court of Criminal Appeal may, if they think fit, on the application of an appellant under this Part of this Act or a person applying for leave to appeal thereunder, admit him to bail pending an appeal from the Court.

Detention of accused pending appeal by the Crown. 41.—(1) Where the defendant in any proceedings from which an appeal lies to the House of Lords under this Part of this Act would, but for the decision of the Court of Criminal Appeal, be liable to be detained and immediately after that decision the prosecutor is granted, or gives notice that he intends to apply for, leave to appeal, the Court may make an order providing for his detention, or direct that he shall not be released except on bail (which may be granted by the Court as under section 40 above) so long as an appeal under this Part of this Act is pending.

(2) An order under subsection (1) above shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the Court of Criminal Appeal.

(3) When an order is made under this section in the case of a defendant who, but for the decision of the Court of Criminal Appeal, would be liable to be detained in pursuance of an order or direction under the Mental Health Act (Northern Ireland) 1961, the order under this section shall be one authorising his continued detention in pursuance of the order or direction, and the provisions of the said Act of 1961 with respect to persons so liable (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.

1961 c. 15
(N.I.).

(4) Where the Court of Criminal Appeal have power to make an order under this section, and either no such order is made or the defendant is released or discharged by virtue of subsection (2) or subsection (3) above, before the appeal is disposed of, the defendant shall not be liable to be again detained as the result of the decision of the House of Lords on the appeal.

Legal aid.

42.—(1) The Court of Criminal Appeal may at any time when it appears to them, in the case of an appeal from the Court under this Part of this Act or of proceedings preliminary or incidental to such an appeal, that it is desirable in the interests

of justice that the defendant should have legal aid, and that he has not sufficient means to enable him to obtain that aid, assign to him (whether he is appellant or respondent in the appeal) a solicitor and counsel, or counsel only, in the appeal or proceedings.

(2) If on a question of granting a person free legal aid under this section there is a doubt whether his means are sufficient to enable him to obtain legal aid or whether it is desirable in the interests of justice that he should have free legal aid, the doubt shall be resolved in favour of granting him free legal aid.

(3) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a defendant by virtue of this section, in either case up to an amount allowed by the House of Lords or by such officer or officers of that House as may be prescribed by order of that House, shall be paid by the Ministry.

43. A defendant who is detained pending an appeal under this Part of this Act shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto, except where an order of the House of Lords or rules of court, as the case may be, authorise him to be present or where that House or the Court of Criminal Appeal, as the case may be, give him leave to be present.

Presence of defendant at hearing.

Matters arising out of appeal

44.—(1) If a person subject to a sentence is admitted to bail pending an appeal under this Part of this Act, the time during which he is at large after being so admitted shall be disregarded in computing the term of his sentence.

Effect of appeal on sentence.

(2) Subject to the foregoing subsection, any sentence passed on such an appeal in substitution for another sentence shall, unless the House of Lords or the Court of Criminal Appeal otherwise direct, begin to run from the time when the other sentence would have begun to run.

45.—(1) Where the operation of an order for the restitution of property made on conviction on indictment is suspended until the determination of an appeal to the Court of Criminal Appeal, then, if the conviction is not quashed on that appeal, the operation of the order shall continue to be suspended—

Restitution of property.

(a) in any case until the expiration of the time within which an application for leave to appeal under this Part of this Act may be made (disregarding any extension of time which may be granted under section 37(2) of this Act); and

PART III

(b) if any such application is made within that time, so long as the appeal under this Part of this Act is pending.

(2) Where the operation of any such order as aforesaid is suspended under this section,—

(a) the order shall not take effect if the conviction is quashed on appeal to the House of Lords; and

(b) such steps shall be taken for the safe custody of the property in question during the period during which the operation of the order is suspended as may be prescribed by rules of court.

(3) Where by reason of the quashing by the Court of Criminal Appeal of a person's conviction such an order does not take effect and on an appeal under this Part of this Act the conviction is restored by the House of Lords, that House may make any order for the restitution of property which could be made on his conviction by the court which convicted him.

1894 c. 71

(56 & 57 Vict.).

(4) This section applies in relation to section 24(1) of the Sale of Goods Act 1893 (revesting of stolen property on conviction of thief) as it applies in relation to an order for the restitution of property; and without prejudice to the powers of the House of Lords under subsection (3) of this section, the said section 24(1) shall apply in any case where a conviction on indictment is restored by that House as it applies on the conviction of an offender.

Costs.

46.—(1) Where the Court of Criminal Appeal or the House of Lords dismiss an application for leave to appeal from that court, the Court or the House may, if they think fit,—

(a) where the application was made by the prosecutor, order the payment by the Ministry to the defendant of such sums as appear to the Court or the House reasonably sufficient to compensate the defendant for any expenses properly incurred by him in resisting the application; or

(b) where the application was made by the defendant, order him to pay the whole or any part of the costs of the application.

(2) Where an appeal to the House of Lords from the Court of Criminal Appeal under this Part of this Act is determined in favour of the defendant, the House of Lords may, if they think fit, order the payment by the Ministry of such sums as appear to the House reasonably sufficient to compensate the defendant for any expenses properly incurred by him—

(a) in the appeal to the House of Lords or in the proceedings before the Court of Criminal Appeal, as the

case may be (including the cost of any application for leave to appeal) ; or

- (b) in carrying on his defence before the court of assize or county court, at the preliminary investigation and before any other court of assize or county court before which proceedings for the offence in respect of which he was committed for trial were begun but not concluded.

(3) Except as provided by this section, no costs shall be allowed on the hearing or determination of an appeal under this Part of this Act or of any proceedings preliminary or incidental to such an appeal.

47.—(1) Any amount which the Court of Criminal Appeal order to be paid under section 46(1) of this Act shall, except where it is a specific amount ordered to be paid towards the costs of the application as a whole, be ascertained as soon as practicable by the Court. Taxation of costs.

(2) Any amount which the House of Lords order to be paid under section 46(1) or (2) of this Act shall, except as aforesaid, be ascertained as soon as practicable by such officer or officers, and in such manner, as may be prescribed by order of the House of Lords.

(3) Where the Court of Criminal Appeal or the House of Lords order the payment of costs by the defendant under section 46 of this Act, the order shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case.

Supplementary

48. The following powers of the Court of Criminal Appeal under this Part of this Act may be exercised by any judge of the Court:— Powers of Court of Criminal Appeal which are exercisable by single judge.

- (a) the power to extend the time for applying for leave to appeal ;
- (b) the power to make an order for or in relation to bail ;
- (c) the power to grant free legal aid ;
- (d) the power to give leave for a defendant to be present at the hearing of any proceedings preliminary or incidental to an appeal ;

but where the judge refuses an application to exercise any such power, the applicant shall be entitled to have the application determined by the Court.

PART IV

GENERAL

Rules of
court.
1962 c. 30.

49.—(1) Rules may be made under section 7(1) of the Northern Ireland Act 1962—

- (a) for regulating generally the practice and procedure under Parts I and II of this Act and under Part III of this Act so far as it relates to the Court of Criminal Appeal; and
- (b) for prescribing anything which by Part II of this Act is required or authorised to be prescribed.

(2) The officers of any court before which an appellant has been convicted or, being charged on indictment with an offence, has been found not guilty by reason of insanity, and the governor or other officers of any prison or other officer having the custody of an appellant, and all other persons, shall comply with any rules having effect by virtue of subsection (1) of this section so far as affecting those officers or persons; and compliance with such rules may be enforced by order of the Court of Criminal Appeal.

(3) No rule affecting the governor or any other officer of a prison or any officer having the custody of an appellant shall be made under section 7(1) of the said Act of 1962 by virtue of subsection (1) of this section except after consultation with the Ministry.

Interpretation
(general).
1959 c. 25
(N.I.).

50.—(1) In this Act—

- “county court” means a county court held for a division under the County Courts Act (Northern Ireland) 1959;
- “the Court of Appeal” means Her Majesty’s Court of Appeal in Northern Ireland;
- “enactment” includes an enactment of the Parliament of Northern Ireland;
- “the High Court” means Her Majesty’s High Court of Justice in Northern Ireland;
- “the Lord Chief Justice” means the Lord Chief Justice of Northern Ireland;
- “the Minister” and “the Ministry” mean respectively the Minister and Ministry of Home Affairs for Northern Ireland;
- “prescribed” means prescribed by rules of court;
- “rules of court” means rules made or having effect as if made under section 7 of the Northern Ireland Act 1962; and
- “the Supreme Court” means the Supreme Court of Judicature of Northern Ireland.

(2) Any reference in this Act to another enactment is a reference thereto as amended by or under any other enactment, including this Act.

(3) Any reference in this Act to an enactment of the Parliament of Northern Ireland shall be construed as including a reference to an enactment corresponding thereto and for the time being in force in Northern Ireland. PART IV

51. Nothing in this Act is to be taken as affecting the prerogative of mercy. Saving for prerogative of mercy.

52.—(1) No limitation or restriction imposed by the Government of Ireland Act 1920 on the power of the Parliament of Northern Ireland to make laws shall preclude that Parliament from enacting provisions— Legislative powers of Parliament of Northern Ireland.

(a) conferring any jurisdiction or power on the Court of Criminal Appeal or any judge or officer of that court; 1920 c. 67.

(b) empowering the making of rules under section 7(1) of the Northern Ireland Act 1962 for regulating the procedure and practice of that court. 1962 c. 30.

(2) For the purposes of section 6 of the Government of Ireland Act 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

53.—(1) The enactments specified in Schedule 3 to this Act (being, in the case of Part I of the Schedule, enactments of the Parliament of the United Kingdom and, in the case of Part II, enactments of the Parliament of Northern Ireland) shall be amended as shown in that Schedule. Consequential amendment of enactments; transitional provisions.

(2) The transitional provisions set out in Schedule 4 to this Act shall have effect.

(3) Nothing in this section is to be taken as affecting the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals; and that section shall have the like operation in relation to any repeal by this Act of an enactment of the Parliament of Northern Ireland as it has in relation to the repeal of an Act of the Parliament of the United Kingdom. 1889 c. 63.

54. The enactments specified in the second column of Schedule 5 to this Act, in so far as they apply to Northern Ireland, are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

55.—(1) This Act may be cited as the Criminal Appeal (Northern Ireland) Act 1968. Short title and commencement.

(2) This Act shall come into operation on the day appointed for the coming into operation of section 98 of the Criminal Justice Act 1967. 1967 c. 80.

SCHEDULES

Section 14.

SCHEDULE 1

PROVISIONS APPLICABLE ON RETRIAL

Legal Aid

1965 c. 8 (N.I.). 1. Section 21 of the Legal Aid and Advice Act (Northern Ireland) 1965 (grant of defence certificate to person returned for trial on indictment) shall apply in the case of an appellant who is to be retried by virtue of an order under section 13 of this Act as if he had been committed for trial for the offence or the offences in question, and as if references in subsection (2) of the said section 21 to a magistrates' court included references to the Court of Criminal Appeal.

Depositions

1964 c. 21 (N.I.). 2. On a retrial ordered under section 13 of this Act, section 50(1) of the Magistrates' Courts Act (Northern Ireland) 1964 (reading of depositions) shall not apply to the depositions of any person who gave evidence at the original trial, but a transcript of the shorthand notes of the evidence given by any witness at the original trial may, with the leave of the judge, be read as evidence—

(a) by agreement between the prosecution and the defence ; or

(b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success ;

and in either case may be so read without further proof if verified in accordance with rules of court.

Conviction and sentence

3. Notwithstanding any rule of law to the contrary, a person ordered to be retried under section 13 of this Act may, if found guilty, be convicted on the retrial and the court before whom he is so convicted may pass in respect of the offence of which he is so convicted any sentence authorised by law to be imposed upon a conviction for that offence.

4. Without prejudice to the power of the court to impose any other sentence, the court before whom a person is convicted on retrial may pass in respect of the offence any sentence lawfully passed in respect of the offence charged on the original conviction notwithstanding that, on the date of the conviction on retrial, that person has ceased to be of an age at which such a sentence could otherwise be passed.

5. Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when such a sentence passed at the original trial would have begun to run ; but, in computing the term of his sentence or the

period for which he may be detained thereunder, as the case may be, there shall be disregarded— SCH. 1

- (a) any time before his conviction on retrial which would have been disregarded if the sentence had been passed at the original trial and the original conviction had not been quashed ; or
- (b) any time during which he was at large after being admitted to bail under section 22 of this Act.

SCHEDULE 2

Section 18.

EFFECT OF ORDERS UNDER SECTION 18(6) FOR DETENTION IN HOSPITAL

1.—(1) An order for detention under section 18(6) of this Act shall be sufficient authority for a constable, a welfare officer or any other person directed by the Court of Criminal Appeal to take the person to whom the order relates and convey him at any time within the period of seven days beginning with the date on which the order was made, to the hospital mentioned in that subsection.

(2) The Court of Criminal Appeal may give such directions as it thinks fit for the conveyance of the person to whom the order relates to a place of safety within the meaning of section 105(6) of the Mental Health Act (Northern Ireland) 1961 and his detention therein pending his admission to hospital within the said period of seven days. 1961 c. 15 (N.I.)

(3) Where a person is ordered under section 18(6) of this Act to be detained in a hospital, the order shall be sufficient authority to detain him in the hospital in accordance with the provisions of the said Act of 1961, as applied by the next following paragraph.

2. A person who is detained in hospital in pursuance of an order under section 18(6) of this Act shall be treated for the purposes of Part II of the Mental Health Act (Northern Ireland) 1961 as if he had been admitted on the date of the order in pursuance of an application for admission duly made under section 12 of that Act.

SCHEDULE 3

Section 53(1).

CONSEQUENTIAL AMENDMENT OF ENACTMENTS

PART I

ENACTMENTS OF THE PARLIAMENT OF UNITED KINGDOM

THE ADMINISTRATION OF JUSTICE ACT 1960 (c. 65)

Section 1

At the end of the section, in the form in which it applies to Northern Ireland by virtue of section 18(4) of, and Schedule 2 to, the Act, there shall be added the following subsection:—

“(6) Except as provided by this Act or the Criminal Appeal (Northern Ireland) Act 1968, no appeal lies from any judgment of the High Court of Justice in Northern Ireland in any criminal cause or matter.”

SCH. 3 *Section 13*

For subsection (6), in the form in which it applies to Northern Ireland by virtue of section 18(4) of, and Schedule 2 to, the Act, there shall be substituted the following subsection:—

“(6) This section does not apply to a conviction or sentence in respect of which an appeal lies under Part II of the Criminal Appeal (Northern Ireland) Act 1968 or to a decision of the Court of Criminal Appeal in Northern Ireland under that Part of that Act; and for the purposes of that Act and of this subsection an order for the punishment of any person for contempt of court in proceedings in which he has a right of appeal against his sentence shall be treated as part of that sentence.”

PART II

ENACTMENTS OF THE PARLIAMENT OF NORTHERN IRELAND

THE CRIMINAL JUSTICE ACT (NORTHERN IRELAND) 1945 (c. 15)

Section 33(4)

For the words “the Criminal Appeal (Northern Ireland) Act 1930” there shall be substituted the words “Part II of the Criminal Appeal (Northern Ireland) Act 1968”.

THE PRISON ACT (NORTHERN IRELAND) 1953 (c. 18)

Section 13(4)

In paragraph (d) for the words “the Criminal Appeal (Northern Ireland) Act 1930” there shall be substituted the words “Part II of the Criminal Appeal (Northern Ireland) Act 1968”.

THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959 (c. 25)

Section 45

For the words “the Criminal Appeal (Northern Ireland) Act 1930” there shall be substituted the words “Part II of the Criminal Appeal (Northern Ireland) Act 1968”.

THE MENTAL HEALTH ACT (NORTHERN IRELAND) 1961 (c. 15)

Section 56(4)

For the words “sections 15 or 16 of the Criminal Justice Act (Northern Ireland) 1966” there shall be substituted the words “section 17 or 18 of the Criminal Appeal (Northern Ireland) Act 1968”.

Section 59(2)

In paragraph (a), for the words “section 17 of the Criminal Justice Act (Northern Ireland) 1966” there shall be substituted the words “section 13 of the Criminal Appeal (Northern Ireland) Act 1968”.

Section 53(2).

SCHEDULE 4

TRANSITIONAL PROVISIONS

1.—(1) Any right of appeal subsisting immediately before the commencement of this Act by virtue of an enactment repealed thereby shall after that commencement be treated as subsisting by virtue of the corresponding provision of this Act.

(2) Any appeal or application pending before the said commencement under an enactment so repealed may be prosecuted and disposed of in accordance with the provisions of this Act corresponding to those in force immediately before the said commencement and applicable to the appeal or application.

SCH. 4

2.—(1) In so far as any order or rule made or having effect as if made, direction given or other thing done under or by virtue of an enactment repealed by this Act could have been made, given or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made, given or done under or by virtue of that corresponding provision.

(2) Any document referring to an enactment repealed by this Act shall, so far as may be necessary for preserving its effect, be construed as referring or as including a reference to the corresponding enactment in this Act.

3. References in this Schedule to enactments repealed by this Act shall be construed as including references to enactments which are reproduced in this Act in relation to matters for which provision is made by this Act while remaining unrepealed in relation to matters for which provision is made by another Act; and section 38 of the Interpretation Act 1889 shall apply with respect to any such enactment as if it had been repealed by this Act in relation to matters for which provision is made by this Act. 1889 c. 63.

SCHEDULE 5

Section 54.

REPEALS

ENACTMENTS OF THE PARLIAMENT OF THE UNITED KINGDOM

| Chapter | Short Title | Extent of Repeal |
|----------------------------|--|---|
| 20 & 21 Geo. 5. c. 45. | The Criminal Appeal (Northern Ireland) Act 1930. | The whole Act. |
| 8 & 9 Eliz. 2. c. 65. | The Administration of Justice Act 1960. | Section 1(1)(b). Section 3(2). Section 4(1). Sections 7 and 8. Section 9(1) and (4). Section 18(1). In Schedule 2, paragraph 4 of Part I and, in Part II, the modification of section 8. In Schedule 3, the entry relating to the Criminal Appeal (Northern Ireland) Act 1930. |
| 10 & 11 Eliz. 2. c. 30. | The Northern Ireland Act 1962. | Section 6. In section 29(1), the definition of "the Court of Criminal Appeal". |

ENACTMENTS OF THE PARLIAMENT OF THE UNITED KINGDOM

| Chapter | Short Title | Extent of Repeal |
|--|---|---|
| 10 & 11 Eliz. 2. c. 30.— <i>cont.</i> | The Northern Ireland Act 1962.— <i>cont.</i> | In Part I of Schedule 1, so much as amends the Criminal Appeal (Northern Ireland) Act 1930 and section 18 of the Administration of Justice Act 1960 and paragraph 4 of Part I of Schedule 2 to that Act. |
| 1966 c. 31. | The Criminal Appeal Act 1966. | Sections 5, 6, 7 and 11; and section 12(5). |
| 1967 c. 80. | The Criminal Justice Act 1967. | Section 98(6) and (7). In section 106(3)(d), the words "the Criminal Appeal (Northern Ireland) Act 1930", and the words from "sections 7" onwards. In Schedule 4, paragraphs 9 to 15, 25(a), 29, 36, 37, 39 and 41. |

ENACTMENTS OF THE PARLIAMENT OF NORTHERN IRELAND

| Chapter | Short Title | Extent of Repeal |
|-----------------------|---|---|
| 1950 c. 5. (N.I.) | The Children and Young Persons Act (Northern Ireland) 1950. | In section 57(5), paragraph (b). |
| 1954 c. 33. (N.I.) | The Interpretation Act (Northern Ireland) 1954. | In section 42(1), in the definition of "Court of Criminal Appeal", the words "constituted under section one of the Criminal Appeal (Northern Ireland) Act 1930". |
| 1961 c. 15. (N.I.) | The Mental Health Act (Northern Ireland) 1961. | Section 56(5). |
| 1965 c. 8. (N.I.) | The Legal Aid and Advice Act (Northern Ireland) 1965. | In section 23, paragraph (b). |
| 1966 c. 20. (N.I.) | The Criminal Justice Act (Northern Ireland) 1966. | In section 3(3), the words "and in the subsection substituted by that section for section 4(4) of the Criminal Appeal (Northern Ireland) Act 1930" and the words "and in the said substituted subsection". In Part III, sections 15 to 20 and section 22. Schedule 1. |
| 1967 c. 18. (N.I.) | The Criminal Law Act (Northern Ireland) 1967. | In Schedule 1, paragraph 27. |



Legitimation (Scotland) Act 1968

1968 CHAPTER 22

An Act to amend and codify the law of Scotland relating to the legitimation of illegitimate persons by the subsequent marriage of their parents; to make provision in relation to the recognition under the law of Scotland of legitimation effected under foreign law and to the effects of such recognition; and for connected purposes. [8th May 1968]

BE IT ENACTED by the Queen'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. Where the parents of an illegitimate person marry each other after the commencement of this Act, then if— Requirements and effects of legitimation.

(a) the father of the said person is domiciled in Scotland at the date of the marriage, and

(b) the said person is living at that date,

the marriage shall, subject to the provisions of this Act, render that person legitimate with effect from the date of the marriage and confer on him the rights, and impose on him the obligations, of a legitimate person with effect from that date.

2.—(1) Subject to the provisions of this section, the legitimation of a person shall not confer any status or right, or impose any obligation, on that or any other person in respect of any time previous to the date of the legitimation. Scope of rights and obligations arising on legitimation.

(2) A person shall not be entitled, by virtue of his legitimation or of the legitimation of any other person—

(a) to any right in the intestate estate of a person dying after the commencement of this Act and before the date of the legitimation, or

(b) to legitim out of the estate of a person dying as aforesaid.

(3) The legitimation of a person shall not affect any right under a deed coming into operation after the commencement of this Act if that right has become indefeasibly vested in any other person before the date of the legitimation.

(4) Subject to the provisions of subsection (3) above—

(a) a legitimated person shall be entitled to any right under a deed coming into operation after the commencement of this Act, being a right his entitlement to which depends on his legitimacy, and

(b) a person other than the legitimated person shall be entitled to any right under such a deed, being a right his entitlement to which depends on the legitimacy of the legitimated person.

(5) Without prejudice to the foregoing provisions of this section, any reference (however expressed) in any deed coming into operation after the commencement of this Act to a child, or to issue, of a marriage shall be construed as including a reference—

(a) in either case, to any child legitimated by that marriage, and

(b) where the reference is to issue, to the issue, being legitimated persons, of any child of that marriage (including such issue of any child legitimated by that marriage).

(6) Without prejudice to the provisions of sections 23 and 24 of the Succession (Scotland) Act 1964 and of section 6(2) below, where any right is conferred or any obligation is imposed, whether by operation of law or under any deed coming into operation after the commencement of this Act, by reference to the relative seniority of the members of a class of persons, and that right is conferred or that obligation is imposed in terms which indicate that the class is one consisting of legitimate persons only, then—

(a) any member of that class who is a legitimated person shall rank as if he had been born on the date of his legitimation, and

(b) if two or more members of that class are legitimated persons whose dates of legitimation are the same, they shall rank as between themselves in accordance with their respective times of birth.

(7) Subject to the foregoing provisions of this section, the legitimation of a person shall enure to the benefit of any other person claiming any right arising after the commencement of this Act, being a right his entitlement to which depends on the legitimacy of the legitimated person.

(8) Subsection (1) above shall apply only in relation to the legitimation of a person by or under this Act.

3.—(1) Where—

- (a) an illegitimate person has died or dies, whether before or after the commencement of this Act, and
- (b) that person would, if he had not died, have been legitimated on any date before or after such commencement or (by virtue of section 4 below) at such commencement,

Rights and obligations arising where parents of deceased illegitimate person marry.

the provisions of this Act shall apply for the purpose of determining the rights and obligations of any person living at or after the relevant date as if the illegitimate person had been legitimated with effect from that date.

(2) In subsection (1) above, the expression “the relevant date” means—

- (a) the date which would have been the date of the legitimation of the illegitimate person, if that date occurs after the commencement of this Act ;
- (b) in any other case, the date of such commencement.

4. Where—

- (a) the parents of an illegitimate person have married each other before the commencement of this Act, and
- (b) the father of the said person was domiciled in Scotland at the date of the marriage, and
- (c) that person was living at the date of the marriage, but
- (d) by reason of the existence at any time previous to the marriage of an impediment thereto, the marriage did not, according to the law in force immediately before the commencement of this Act, render that person legitimate,

Legitimation of certain persons who were not legitimated by the marriage of their parents, etc.

then, subject to the provisions of this Act—

- (i) if the illegitimate person is living at the commencement of this Act, the marriage shall render that person legitimate with effect from the date of such commencement and confer on him the rights, and impose on him

the obligations, of a legitimate person with effect from that date ;

- (ii) if the illegitimate person is not living at the commencement of this Act, the provisions of this Act shall apply for the purpose of determining the rights and obligations of any person living at or after the date of such commencement as if the illegitimate person had been legitimated with effect from that date.

Provisions relating to recognition of foreign legitimation.

5.—(1) In this Act, unless the context otherwise requires—

- (a) references to the legitimation of a person shall (subject to paragraph (b) below) be construed as including references to the recognition under the law of Scotland, whether before or after the commencement of this Act, of a person as being legitimated under the law of a country or territory outside Scotland by the subsequent marriage of his parents ;
- (b) references to the legitimation of a person under this Act shall be construed as including references to the recognition, after the commencement of this Act, of a person as being legitimated as aforesaid ;
- (c) subject to the provisions of subsection (3) below, references to the date of the legitimation of a person shall, in relation to a person recognised as being legitimated as aforesaid, be construed as references to the date which his legitimation was or is recognised as having effect from ;

and “ legitimated ” shall be construed accordingly.

(2) Where after the commencement of this Act any person is legitimated under the law of a country or territory outside Scotland, the fact that the father of that person was at any time previous to his marriage to the mother of that person domiciled in a country or territory in which legitimation by subsequent marriage was not permitted by law shall not prevent the recognition of that person as being legitimated.

(3) A person legitimated after the commencement of this Act under the law of a country or territory outside Scotland shall not be recognised as being legitimated with effect from a date earlier than that on which his legitimation occurs.

(4) For the purposes of this section a person legitimated under the law of a country or territory outside Scotland shall be deemed to be so legitimated by the subsequent marriage of his parents in any case where, under the law of the country or territory in question, the marriage of his parents was a condition necessary to his legitimation.

6.—(1) Where any person who has been adopted by his father and mother before the commencement of this Act is legitimated by virtue of section 4 above, the court by which the adoption order was made may, on the application of any of the parties concerned, revoke that order.

Additional provisions where legitimated person had previously been adopted by one or both parents. 1958 c. 5 (7 & 8 Eliz. 2). 1964 c. 41.

(2) The revocation of an adoption order under this section, or under section 26 of the Adoption Act 1958, shall not affect the operation of sections 23 and 24 of the Succession (Scotland) Act 1964 in relation to an intestacy which occurred, or a deed which came into operation, before the revocation.

(3) This section shall be construed as one with section 26 of the Adoption Act 1958; and any reference in that Act to that section or to subsection (1) of that section shall be construed as including a reference to subsection (1) of this section.

7.—(1) The operation of any deed shall be affected by this Act only in so far as, in the construction of the deed, no contrary intention appears.

Savings.

(2) The legitimation of any person—

(a) by virtue of section 4 of this Act, or

(b) under this Act, if he would not have been legitimated had this Act not been passed,

shall not confer any right on that or any other person under a deed which came into operation before the commencement of this Act.

(3) Subject to the provisions of subsection (2) above, where any person has been or is legitimated, any question as to the entitlement of that or any other person to a right under a deed which came into operation before the commencement of this Act shall, in so far as such entitlement depends on the legitimacy of the legitimated person, be determined in accordance with the law in force immediately before such commencement.

8.—(1) In this Act, unless the context otherwise requires— Interpretation.

“deed” includes any disposition, contract, instrument or writing, whether *inter vivos* or *mortis causa*;

“intestate estate” means so much of the estate of a person who has died as is undisposed of by testamentary disposition;

“marriage” includes putative marriage and voidable marriage.

(2) In this Act, unless the context otherwise requires, references to the legitimation of a person shall be construed as references to the legitimation of a person (whether by or under this Act or before the commencement thereof) by the subsequent marriage of his parents, and “legitimated” shall be construed accordingly.

(3) For the purposes of this Act a deed made in the exercise of a special power of appointment shall be deemed to come into operation at the date on which the deed creating the power came into operation.

(4) The provisions of this Act shall have effect in relation to any question as to the succession to, or devolution of, any title, honour or dignity after the commencement of this Act as if the right to succeed to that title, honour or dignity were a right under a deed coming into operation after such commencement and as if the title, honour or dignity devolved in accordance with such a deed.

(5) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment, including this Act.

Short title,
extent and
commence-
ment.

9.—(1) This Act may be cited as the Legitimation (Scotland) Act 1968.

(2) This Act shall extend to Scotland only.

(3) This Act shall come into operation on the expiration of the period of one month beginning with the date on which it is passed.



Rent Act 1968

1968 CHAPTER 23

An Act to consolidate the Rent and Mortgage Interest Restrictions Acts 1920 to 1939, the Furnished Houses (Rent Control) Act 1946, the Landlord and Tenant (Rent Control) Act 1949, Part II of the Housing Repairs and Rents Act 1954, the Rent Act 1957 (except section 16 thereof), the Rent Act 1965 (except Part III thereof) and other related enactments.

[8th May 1968]

B IT ENACTED by the Queen'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

PRELIMINARY

1.—(1) A tenancy under which a dwelling-house (which may be a house or part of a house) is let as a separate dwelling is a protected tenancy for the purposes of this Act unless—

- (a) the dwelling-house has or had on the appropriate day a rateable value exceeding, if it is in Greater London, £400 or, if it is elsewhere, £200; or
- (b) the tenancy is one with respect to which section 2 below otherwise provides; or
- (c) by virtue of section 4 or section 5 below, the tenancy is for the time being precluded from being a protected tenancy by reason of the body in whom the landlord's interest is vested;

and any reference to a protected tenant shall be construed accordingly.

PART I

1967 c. 9.

(2) For the purposes of this Act, any land or premises let together with a dwelling-house shall, unless it consists of agricultural land exceeding two acres in extent, be treated as part of the dwelling-house; and for this purpose "agricultural land" has the meaning set out in paragraph (a) of section 26(3) of the General Rate Act 1967 (which relates to the exclusion of agricultural land and premises from liability for rating).

(3) If any question arises in any proceedings whether a dwelling-house is within the limits of rateable value in subsection (1)(a) above, it shall be deemed to be within those limits unless the contrary is shown.

Tenancies
excepted from
definition of
"protected
tenancy".

2.—(1) A tenancy is not a protected tenancy if—

- (a) under the tenancy either no rent is payable or, subject to section 7(3) below, the rent payable is less than two-thirds of the rateable value which is or was the rateable value of the dwelling-house on the appropriate day; or
- (b) under the tenancy the dwelling-house is bona fide let at a rent which includes payments in respect of board, attendance or use of furniture; or
- (c) subject to section 1(2) above, the dwelling-house which is subject to the tenancy is let together with land other than the site of the dwelling-house; or
- (d) the dwelling-house is comprised in an agricultural holding (within the meaning of the Agricultural Holdings Act 1948) and is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding.

1948 c. 63.

(2) In the following provisions of this Act, a tenancy falling within paragraph (a) of subsection (1) above is referred to as a "tenancy at a low rent".

(3) For the purposes of paragraph (b) of subsection (1) above, a dwelling-house shall not be taken to be bona fide let at a rent which includes payments in respect of attendance or the use of furniture unless the amount of rent which is fairly attributable to attendance or use of furniture, having regard to the value of the attendance or the use to the tenant, forms a substantial part of the whole rent.

Statutory
tenants and
tenancies.

3.—(1) Subject to sections 4 and 5 below—

- (a) after the termination of a protected tenancy of a dwelling-house the person who, immediately before that termination, was the protected tenant of the dwelling-house shall, if and so long as he occupies the dwelling-house as his residence, be the statutory tenant of it; and

(b) the provisions of Schedule 1 to this Act shall have effect for determining what person (if any) is the statutory tenant of a dwelling-house at any time after the death of a person who, immediately before his death, was either a protected tenant of the dwelling-house or the statutory tenant of it by virtue of paragraph (a) above ;

and a dwelling-house is referred to as subject to a statutory tenancy when there is a statutory tenant of it.

(2) In paragraph (a) of subsection (1) above and in Schedule 1 to this Act, the phrase "if and so long as he occupies the dwelling-house as his residence" shall be construed as requiring the fulfilment of the same, and only the same, qualifications (whether as to residence or otherwise) as had to be fulfilled before the commencement of this Act to entitle a tenant, within the meaning of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920, to retain possession, by virtue of that Act and not by virtue of a tenancy, of a dwelling-house to which that Act applied.

(3) A person who becomes a statutory tenant of a dwelling-house as mentioned in paragraph (a) of subsection (1) above is, in this Act, referred to as a statutory tenant by virtue of his previous protected tenancy, and a person who becomes a statutory tenant as mentioned in paragraph (b) of that subsection is, in this Act, referred to as a statutory tenant by succession.

4.—(1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or to a Government department, or is held in trust for Her Majesty for the purposes of a Government department. No protected or statutory tenancy where landlord's interest belongs to Crown.

(2) A person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would at that time, belong or be held as mentioned in subsection (1) above.

5.—(1) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to any of the bodies specified in subsection (2) below, nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would belong at that time to any of those bodies. No protected or statutory tenancy where landlord's interest belongs to local authority, etc.

(2) The bodies referred to in subsection (1) above are—

(a) the council of a county or county borough ;

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- (b) the council of a county district or, in the application of this Act to the Isles of Scilly, the Council of the Isles of Scilly ;
- (c) the Greater London Council, the council of a London borough or the Common Council of the City of London ;
- (d) the Commission for the New Towns ;
- (e) the Housing Corporation ;
- (f) a development corporation established by an order made, or having effect as if made, under the New Towns Act 1965 ; and
- (g) a housing trust (as defined in subsection (3) below) which is a charity within the meaning of the Charities Act 1960.

1965 c. 59.

1960 c. 58.

(3) In subsection (2)(g) above, "housing trust" means a corporation or body of persons which,—

- (a) is required by the terms of its constituent instrument to devote the whole of its funds, including any surplus which may arise from its operations, to the following purposes, that is to say, the provision of houses for persons the majority of whom are in fact members of the working classes, and other purposes incidental thereto ; or
- (b) is required by the terms of its constituent instrument to devote the whole or substantially the whole of its funds to charitable purposes and in fact devotes the whole or substantially the whole of its funds to the purposes set out in paragraph (a) above.

(4) In subsection (3) above, "house" includes—

- (a) any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith ; and
- (b) any part of a building which is occupied or intended to be occupied as a separate dwelling.

(5) If any of the conditions specified in subsection (6) below is fulfilled, a tenancy shall not be a protected tenancy at any time when the interest of the landlord under that tenancy belongs to a housing association, nor shall a person at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would belong at that time to a housing association ; and in this section "housing association" has the same meaning as in the Housing Act 1957.

1957 c. 56.

(6) The conditions referred to in subsection (5) above are as follows,—

- (a) that the dwelling-house was provided by the housing association with assistance under section 2 of the

- Housing &c. Act 1923, section 93(3) of the Housing Act 1936 or section 119(3) of the Housing Act 1957 (powers of local authorities to assist housing associations generally);
- (b) that the dwelling-house was provided by the housing association in pursuance of an arrangement under section 29 of the Housing Act 1930, section 27 of the Housing Act 1935, section 94 of the Housing Act 1936, or section 120 of the Housing Act 1957 (local authority arrangements for provision of housing);
- (c) that the dwelling-house was provided or improved by the housing association in accordance with arrangements under section 31 of the Housing Act 1949 or section 121 of the Housing Act 1957 (local authority arrangements for improvement of housing);
- (d) that the housing association is registered under the Industrial and Provident Societies Act 1965 and the provision of the dwelling-house forms part of the purposes for which its business is mainly conducted.

PART I
1923 c. 24.
1936 c. 51.
1957 c. 56.

1930 c. 39.
1935 c. 40.

1949 c. 60.

1965 c. 12.

6.—(1) Except where this Act otherwise provides, the rateable value on any day of a dwelling-house shall be ascertained for the purposes of this Act as follows:—

Rateable value and the appropriate day.

- (a) if the dwelling-house is a hereditament for which a rateable value is then shown in the valuation list, it shall be that rateable value;
- (b) if the dwelling-house forms part only of such a hereditament or consists of or forms part of more than one such hereditament, its rateable value shall be taken to be such value as is found by a proper apportionment or aggregation of the rateable value or values so shown.
- (2) Any question arising under this section as to the proper apportionment or aggregation of any value or values shall be determined by the county court, and the decision of the county court shall be final.
- (3) In this Act “ the appropriate day ”,—
- (a) in relation to any dwelling-house which, on 23rd March 1965, was or formed part of a hereditament for which a rateable value was shown in the valuation list then in force, or consisted or formed part of more than one such hereditament, means that date, and
- (b) in relation to any other dwelling-house means the date on which such a value is or was first shown in the valuation list.
- (4) Where, after the date which is the appropriate day in relation to any dwelling-house, the valuation list is altered so

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as to vary the rateable value of the hereditament of which the dwelling-house consists or forms part and the alteration has effect from a date not later than the appropriate day, the rateable value of the dwelling-house on the appropriate day shall be ascertained as if the value shown in the valuation list on the appropriate day had been the value shown in the list as altered.

(5) The preceding provisions of this section apply in relation to any other land as they apply in relation to a dwelling-house.

Controlled
and regulated
tenancies.

7.—(1) Subject to the following provisions of this section, the provisions of Part I of Schedule 2 to this Act shall have effect in determining whether a protected or statutory tenancy is for the purposes of this Act a “controlled tenancy”.

(2) For the purposes of this Act, a “regulated tenancy” is a protected or statutory tenancy which is not (either because it never was or because it has ceased to be) a controlled tenancy.

(3) A tenancy of a dwelling-house shall be a controlled tenancy and not a tenancy at a low rent if, notwithstanding that the rent is less than two-thirds of the rateable value of the dwelling-house on the appropriate day,—

(a) the rent payable under the tenancy is not less than two-thirds of the 1939 rateable value of the dwelling-house, as determined under Part II of Schedule 2 to this Act; and

(b) apart from section 2(1)(a) above, the tenancy would be a controlled tenancy.

(4) Where a regulated tenancy is followed by a statutory tenancy of the same dwelling-house, the two shall be treated for the purposes of this Act as together constituting one regulated tenancy.

(5) Where a controlled tenancy is followed by a statutory tenancy of the same dwelling-house and that statutory tenancy is itself a controlled tenancy, the two shall be treated for the purposes of this Act as together constituting one controlled tenancy.

Power to
convert
controlled
tenancies into
regulated
tenancies.

8.—(1) The Minister may by order provide, with respect to any area, that where the rateable value on a date specified in the order of a dwelling-house in that area exceeded such amount as may be so specified, and the dwelling-house is let on a protected tenancy or subject to a statutory tenancy which, in either case, is a controlled tenancy, the protected or statutory tenancy shall cease to be a controlled tenancy and, except in the case mentioned in section 9(4) below, shall become a regulated tenancy.

(2) An order under this section may contain such transitional provisions as appear to the Minister to be desirable.

(3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

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9.—(1) Subject to subsection (2) below, the fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being let on or subject to a controlled tenancy. Premises with a business use.

(2) A tenancy of a dwelling-house which consists of or comprises premises licensed for the sale of intoxicating liquors for consumption on the premises shall not be a protected tenancy, nor shall such a dwelling-house be the subject of a statutory tenancy.

(3) Part II of the Landlord and Tenant Act 1954 (which gives security of tenure to business tenants) shall not apply to a tenancy where the property comprised therein is let under a tenancy which either is a controlled tenancy or would be such a tenancy if it were not a tenancy at a low rent. 1954 c. 56.

(4) If, apart from subsection (3) above, Part II of the Landlord and Tenant Act 1954 would apply—

- (a) to a protected tenancy which is a controlled tenancy, or
- (b) to a statutory tenancy which is a controlled tenancy, if it were a tenancy within the meaning of that Act,

the provision to be made with respect to that controlled tenancy by any order under section 8 above shall be that the tenancy shall cease to be treated as a protected or statutory tenancy and shall, instead, be treated for the purposes of the Landlord and Tenant Act 1954 as a tenancy continuing by virtue of section 24 of that Act after the expiry of a term of years certain.

(5) A tenancy shall not be a regulated tenancy if it is a tenancy to which Part II of the Landlord and Tenant Act 1954 applies (but this provision is without prejudice to the application of any other provision of this Act to a sub-tenancy of any part of the premises comprised in such a tenancy).

PART II

SECURITY OF TENURE

Limitations on recovery of possession of dwelling-houses let on protected tenancies or subject to statutory tenancies

10.—(1) Subject to the following provisions of this Part of this Act, a court shall not make an order for possession of a dwelling-house which is for the time being let on a protected Grounds for possession of certain dwelling-houses.

PART II tenancy or subject to a statutory tenancy unless the court considers it reasonable to make such an order and either—

- (a) the court is satisfied that suitable alternative accommodation is available for the tenant or will be available for him when the order in question takes effect, or
- (b) the circumstances are as specified in any of the Cases in Part I of Schedule 3 to this Act.

(2) If, apart from the provisions of subsection (1) above, the landlord would be entitled to recover possession of a dwelling-house which is for the time being let on or subject to a regulated tenancy, the court shall make an order for possession if the circumstances of the case are as specified in any of the Cases in Part II of Schedule 3 to this Act.

(3) The provisions of Part III of Schedule 3 to this Act shall have effect in relation to Case 8 in that Schedule and for determining the relevant date for the purposes of the Cases in Part II of that Schedule.

(4) The provisions of Part IV of Schedule 3 to this Act shall have effect for determining whether, for the purposes of subsection (1)(a) above, suitable alternative accommodation is or will be available for a tenant.

Extended discretion of court in claims for possession of certain dwelling-houses.

11.—(1) Subject to subsection (5) below, a court may adjourn, for such period or periods as it thinks fit, proceedings for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy.

(2) On the making of an order for possession of such a dwelling-house, or at any time before the execution of such an order (whether made before or after the commencement of this Act), the court, subject to subsection (5) below, may—

- (a) stay or suspend execution of the order, or
- (b) postpone the date of possession,

for such period or periods as the court thinks fit.

(3) Any such adjournment as is referred to in subsection (1) above and any such stay, suspension or postponement as is referred to in subsection (2) above may be made subject to such conditions with regard to payment by the tenant of arrears of rent, rent or mesne profits and otherwise as the court thinks fit.

(4) If any such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in subsection (2) above.

(5) The preceding provisions of this section shall not apply if the circumstances are as specified in any of the Cases in Part II of Schedule 3 to this Act.

PART II

Statutory tenancies

12.—(1) So long as he retains possession, a statutory tenant shall observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as they are consistent with the provisions of this Act. Terms and conditions of statutory tenancies.

(2) It shall be a condition of a statutory tenancy of a dwelling-house that the statutory tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

(3) A statutory tenant of a dwelling-house shall be entitled to give up possession of the dwelling-house if, and only if, he gives such notice as would have been required under the provisions of the original contract of tenancy, or, if no notice would have been so required, on giving not less than three months' notice.

(4) Nothing in subsection (3) above shall be construed as affecting the continued operation of section 16 of the Rent Act 1957 (under which at least four weeks' notice to quit is required in respect of premises used as a dwelling). 1957 c. 25.

(5) Notwithstanding anything in the contract of tenancy, a landlord who obtains an order for possession of a dwelling-house as against a statutory tenant shall not be required to give to the statutory tenant any notice to quit.

13.—(1) A statutory tenant of a dwelling-house who, as a condition of giving up possession of the dwelling-house, asks or receives the payment of any sum, or the giving of any other consideration, by any person other than the landlord, shall be guilty of an offence. Payments demanded by statutory tenants as a condition of giving up possession.

(2) Where a statutory tenant of a dwelling-house requires that furniture or other articles shall be purchased as a condition of his giving up possession of the dwelling-house, the price demanded shall, at the request of the person on whom the demand is made, be stated in writing, and if the price exceeds the reasonable price of the articles the excess shall be treated, for the purposes of subsection (1) above, as a sum asked to be paid as a condition of giving up possession.

(3) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

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(4) The court by which a person is convicted of an offence under this section may order the payment—

- (a) to the person who made any such payment, or gave any such consideration, as is referred to in subsection (1) above, of the amount of that payment or the value of that consideration, or
- (b) to the person who paid any such price as is referred to in subsection (2) above, of the amount by which the price paid exceeds the reasonable price.

Change of
statutory
tenant by
agreement.

14.—(1) Where it is so agreed in writing between a statutory tenant (in this section referred to as “the outgoing tenant”) and a person proposing to occupy the dwelling (in this section referred to as “the incoming tenant”), the incoming tenant shall, subject to the following provisions of this section, be deemed to be the statutory tenant of the dwelling as from such date as may be specified in the agreement (in this section referred to as “the transfer date”).

(2) Such an agreement as is referred to in subsection (1) above shall not have effect unless the landlord is a party thereto, and, if the consent of any superior landlord would have been required to an assignment of the previous contractual tenancy, the agreement shall not have effect unless the superior landlord is a party thereto.

(3) If the outgoing tenant is the statutory tenant by virtue of his previous protected tenancy, then, subject to subsection (6) below, the provisions of this Act shall have effect, on and after the transfer date, as if the incoming tenant had been a protected tenant and had become the statutory tenant by virtue of his previous protected tenancy.

(4) Subject to subsections (5) and (6) below, if the outgoing tenant is a statutory tenant by succession, then, on and after the transfer date,—

- (a) the provisions of this Act shall have effect as if the incoming tenant were a statutory tenant by succession, and
- (b) the incoming tenant shall be deemed to have become a statutory tenant by virtue of that paragraph of Schedule 1 to this Act by virtue of which the outgoing tenant became (or is deemed to have become) a statutory tenant.

(5) If the outgoing tenant is a statutory tenant by succession, the agreement referred to in subsection (1) above may provide that, notwithstanding anything in subsection (4) above, on and after the transfer date, the provisions of this Act shall have

effect, subject to subsection (6) below, as if the incoming tenant had been a protected tenant and had become the statutory tenant by virtue of his previous protected tenancy.

(6) Unless the incoming tenant is deemed, by virtue of subsection (4)(b) above, to have become a statutory tenant by virtue of paragraph 6 or paragraph 7 of Schedule 1 to this Act, paragraphs 5 to 7 of that Schedule shall not apply where a person has become a statutory tenant by virtue of this section.

(7) In this section "the dwelling" means the aggregate of the premises comprised in the statutory tenancy of the outgoing tenant.

15.—(1) Any person who requires the payment of any pecuniary consideration for entering into such an agreement as is referred to in section 14(1) above shall be liable to a fine not exceeding £100.

No pecuniary consideration to be required on change of tenant under s. 14.

(2) The court by which a person is convicted of an offence under subsection (1) above may order the amount of the payment to be repaid by the person to whom it was paid.

(3) Without prejudice to subsection (2) above, the amount of any such payment as is referred to in subsection (1) above shall be recoverable by the person by whom it was made either by proceedings for its recovery or, if it was made to the landlord by a person liable to pay rent to the landlord, by deduction from any rent so payable.

(4) Notwithstanding anything in subsection (1) above, if apart from this section he would be entitled to do so, the outgoing tenant may require the payment by the incoming tenant—

- (a) of so much of any outgoings discharged by the outgoing tenant as is referable to any period after the transfer date;
 - (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the outgoing tenant in carrying out any structural alteration of the dwelling or in providing or improving fixtures therein, being fixtures which, as against the landlord, the outgoing tenant is not entitled to remove;
 - (c) where the outgoing tenant became a tenant of the dwelling by virtue of an assignment of the previous protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by the assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in paragraph (b) above;
- or

PART II

(d) where part of the dwelling is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the incoming tenant in connection with his becoming a statutory tenant of the dwelling or accruing to him in consequence thereof.

(5) In this section "outgoing tenant", "incoming tenant", "the transfer date" and "the dwelling" have the same meanings as in section 14 above.

Special cases

Tenancies at low rent of dwelling-houses for which improvement grants have been made.

16.—(1) If assistance has been given in respect of the provision or improvement of a dwelling-house by the making of a grant to which this section applies and, at a time when the relevant conditions are required to be observed with respect to the dwelling-house,—

(a) it is let to a person in consequence of his employment by the lessor, and

(b) it is so let under a tenancy at a low rent,

the operation of section 10(1) above shall not be excluded by reason of the letting being a tenancy at a low rent:

Provided that where section 10(1) above applies to a letting by virtue of this section, Case 9 in Schedule 3 to this Act shall nevertheless be excluded.

(2) This section applies—

1958 c. 42.

(a) to an improvement grant under Part II of the Housing (Financial Provisions) Act 1958; and

1959 c. 33.

(b) to a standard grant under Part II of the House Purchase and Housing Act 1959.

(3) The reference in subsection (1) above to improvement of a dwelling-house shall be construed, in relation to an improvement grant, as a reference to the alteration or enlargement thereof and to the execution of works of repair thereto not being works of ordinary repair, and as including also a reference to the execution of works of ordinary repair thereto so far, but so far only, as the execution thereof is incidental to or connected with the execution of work of improvement, alteration or enlargement or of works of repair not being works of ordinary repair.

(4) In subsection (1) above "the relevant conditions" means the conditions specified in Schedule 4 to the Housing (Financial Provisions) Act 1958 (conditions to be observed by owners of dwellings in receipt of improvement grants) or, as the case may

be, those conditions as applied in relation to standard grants by virtue of section 7 of the House Purchase and Housing Act 1959 c. 33. PART II
1959.

17.—(1) At any time when a dwelling-house to which this section applies is overcrowded, within the meaning of the Housing Act 1957, in such circumstances as to render the occupier guilty of an offence, nothing in this Part of this Act shall prevent the immediate landlord of the occupier from obtaining possession of the dwelling-house. Overcrowded dwelling-houses. 1957 c. 56.

(2) This section applies to a dwelling-house which consists of premises used as a separate dwelling by members of the working classes or of a type suitable for such use.

Miscellaneous

18.—(1) If a court makes an order for possession of a dwelling-house from a tenant, and the order is made by virtue of paragraph (a) or paragraph (b) of section 10(1) above, nothing in the order shall affect the right of any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet before the commencement of the proceedings to retain possession by virtue of this Part of this Act, nor shall the order operate to give a right to possession as against any such sub-tenant. Effect on sub-tenancies of determination of superior tenancy.

(2) Where a protected or statutory tenancy of a dwelling-house is determined, either as a result of an order for possession or for any other reason, any sub-tenant to whom the dwelling-house or any part of it has been lawfully sublet shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms as he would have held from the tenant if the tenant's protected or statutory tenancy had continued.

(3) Subject to subsection (4) below, a long tenancy of a dwelling-house which is also a tenancy at a low rent but which, had it not been a tenancy at a low rent, would have been a protected tenancy, shall be treated for the purposes of subsection (2) above as a protected tenancy.

(4) Notwithstanding anything in subsection (3) above, subsection (2) above shall not have effect where the sub-tenancy in question was created (whether immediately or derivatively) out of a long tenancy falling within subsection (3) above and, at the time of the creation of the sub-tenancy,—

(a) a notice to terminate the long tenancy had been given under section 4(1) of the Landlord and Tenant Act 1954 c. 56. 1954 ; or

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(b) the long tenancy was being continued by section 3(1) of that Act ;

1954 c. 56.

unless the sub-tenancy was created with the consent in writing of the person who at the time when it was created was the landlord, within the meaning of Part I of the Landlord and Tenant Act 1954.

(5) Where a dwelling-house—

(a) forms part of premises which have been let as a whole on a superior letting but do not constitute a dwelling-house let on a protected tenancy ; and

(b) is itself let on a protected tenancy, or subject to a statutory tenancy,

then, from the coming to an end of the superior letting, this Act shall apply in relation to the dwelling-house as if, in lieu of the superior letting, there had been separate lettings of the dwelling-house and of the remainder of the premises, for the like purposes as under the superior letting, and at rents equal to the just proportion of the rent under the superior letting.

Compensation for misrepresentation or concealment in Cases 7 and 8.

19. Where, in such circumstances as are specified in Case 7 or Case 8 in Schedule 3 to this Act, a landlord obtains an order for possession of a dwelling-house let on a protected tenancy or subject to a statutory tenancy and it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

PART III

RENTS UNDER REGULATED TENANCIES

Regulation of rent during contractual periods

Limit of rent during contractual periods.

20.—(1) Where the rent payable for any contractual period of a regulated tenancy of a dwelling-house would exceed the limit specified in the following provisions of this section (in this Part of this Act referred to as “the contractual rent limit”), the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(2) Where a rent for the dwelling-house is registered under Part IV of this Act, then, subject to section 47(3) of this Act, the contractual rent limit is the rent so registered.

(3) Where no rent for the dwelling-house is registered under Part IV of this Act then, subject to any adjustment under

section 21 below, the contractual rent limit shall be determined as follows:— PART III

- (a) if, not more than three years before the regulated tenancy began, the dwelling-house was the subject of another regulated tenancy, the contractual rent limit is the rent payable under that other tenancy (or, if there was more than one, the last of them) for the last rental period thereof;
- (b) in any other case, the contractual rent limit is the rent payable under the terms of the lease or agreement creating the tenancy, as varied, if the tenancy began before 8th December 1965, by any agreement made before that date.

21.—(1) The following provisions of this section shall apply in relation to a contractual period for which the contractual rent limit is that specified in subsection (3) of section 20 above; and in those provisions— Adjustment,
before
registration,
of contractual
rent limit.

“the previous tenancy” means the other regulated tenancy referred to in paragraph (a) of that subsection; and

“the previous terms” means the terms referred to in paragraph (b) of that subsection.

(2) Where, under the terms of a regulated tenancy, there is, with respect to—

- (a) the responsibility for any repairs, or
- (b) the provision of services for the tenant by the landlord or a superior landlord, or
- (c) the use of furniture by the tenant,

any difference compared with the terms of the previous tenancy or, as the case may be, the previous terms, such as to affect the amount of the rent which it is reasonable to charge, the contractual rent limit shall be increased or decreased by an appropriate amount.

(3) Where for any contractual period there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne during the last rental period of the previous tenancy, or, as the case may be, the first rental period for which the previous terms were agreed, the contractual rent limit shall be increased or decreased by the amount of the difference.

(4) Where for any contractual period there is an increase in the cost of the provision of the services (if any) provided for the tenant by the landlord or a superior landlord compared with that cost at the time the rent for the previous tenancy was agreed, or, as the case may be, the previous terms were agreed, such

PART III as to affect the amount of the rent which it is reasonable to charge, the contractual rent limit shall be increased by an appropriate amount.

(5) If an improvement has been effected in the dwelling-house and the improvement was completed after 7th December 1965 and after the time as from which the rent for the previous tenancy was agreed or, as the case may be, the previous terms were agreed, then, subject to section 31 below, the contractual rent limit shall be increased by 12½ per cent. per annum of the amount expended on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.

(6) Where the previous terms provide for a variation of the rent in any of the circumstances mentioned in the preceding provisions of this section, the contractual rent limit shall not be further varied under this section by reason of the same circumstances.

(7) Any question whether, or by what amount, the contractual rent limit is increased or decreased by virtue of subsection (2) or subsection (4) above shall be determined by the county court; and any such determination—

- (a) may be made so as to relate to past rental periods; and
- (b) shall have effect with respect to rental periods subsequent to the periods to which it relates until revoked or varied by a fresh determination.

Regulation of rent during statutory periods

Limit of rent during statutory periods.

22.—(1) Except as otherwise provided by the following provisions of this Part of this Act, where the rent payable for any statutory period of a regulated tenancy of a dwelling-house would exceed the rent recoverable for the last contractual period thereof, the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(2) Subject to section 47(3) of this Act, where a rent for the dwelling-house is registered under Part IV of this Act, the following provisions shall apply with respect to the rent for any statutory period of a regulated tenancy of the dwelling-house, that is to say—

- (a) if the rent payable for any statutory period would exceed the rent so registered, the amount of the excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant; and
- (b) if the rent payable for any statutory period would be less than the rent so registered, it may be increased up to the amount of that rent by a notice of increase served by the landlord on the tenant and specifying the date from which the increase is to take effect.

(3) The date specified in a notice of increase under subsection (2)(b) above shall not be earlier than the date on which the rent was registered nor earlier than four weeks before the service of the notice.

(4) Where no rent for the dwelling-house is registered under Part IV of this Act the provisions of sections 23 to 25 below shall have effect with respect to the rent recoverable for any statutory period under a regulated tenancy of the dwelling-house.

23.—(1) Where section 22(4) above applies and any rates in respect of the dwelling-house are, or were during the last contractual period, borne by the landlord or a superior landlord, then, for any statutory period for which the amount of the rates, ascertained in accordance with Schedule 4 to this Act, differs from the amount, so ascertained, of the rates for the last contractual period, the recoverable rent shall, subject to subsection (2) below, be increased or decreased by the amount of the difference.

Adjustment, with respect to rates, of recoverable rent for statutory periods before registration.

(2) Where the amount of the recoverable rent is increased by virtue of this section, the increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the increase and the date from which it is to take effect.

(3) The date specified in a notice of increase under subsection (2) above shall be not earlier than six weeks before the service of the notice, and if it is earlier than the service of the notice, any rent unpaid shall become due on the day after the service of the notice.

24.—(1) Where section 22(4) above applies and for any statutory period there is with respect to—

(a) the provision of services for the tenant by the landlord or a superior landlord, or

(b) the use of furniture by the tenant,

or any circumstances relating thereto any difference, in comparison with the last contractual period, such as to affect the amount of the rent which it is reasonable to charge, the recoverable rent for the statutory period shall be increased or decreased by an appropriate amount.

Adjustment, with respect to services and furniture, of recoverable rent for statutory periods before registration.

(2) Any question whether, or by what amount, the recoverable rent for any period is increased or decreased by virtue of this section shall be determined by agreement in writing between the landlord and the tenant or by the county court; and any such determination—

(a) may be made so as to relate to past statutory periods; and

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(b) shall have effect with respect to statutory periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in this subsection or by the county court.

Increase, on account of improvements, of recoverable rent for statutory periods before registration.

25.—(1) If, in a case where section 22(4) above applies, an improvement has been effected in a dwelling-house and the improvement was completed after 7th December 1965 and after the time as from which the rent under the regulated tenancy was agreed, then, subject to section 31 below, the recoverable rent for any statutory period beginning after the completion of the improvement shall be increased by 12½ per cent. per annum of the amount expended on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.

(2) Where the amount of the recoverable rent is increased by virtue of this section, the increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the increase and the date, which may be any date after the service of the notice, from which it is to take effect.

(3) Subject to subsection (4) and section 32(6) below, a tenant on whom a notice of increase specifying an increase authorised by this section is served may, not later than one month after the service of the notice or such longer time as the court may allow, apply to the county court for an order cancelling or reducing the increase on the ground that the improvement was unnecessary or that a greater amount was expended on it than was reasonable, and the court may make an order accordingly which may relate not only to future but also to past statutory periods.

(4) No application may be made under subsection (3) above if—

(a) a grant has been made in respect of the improvement under section 30 of the Housing (Financial Provisions) Act 1958 (improvement grants), section 4 of the House Purchase and Housing Act 1959 (standard grants) or section 15 of the Airports Authority Act 1965 (grants towards cost of sound-proofing); or

(b) the tenant in writing consented to the improvement and acknowledged (in whatever terms) that the rent could be increased on account of the improvement.

1958 c. 42.

1959 c. 33.

1965 c. 16.

Notices of increase.

26.—(1) Any reference in the following provisions of this section to a notice of increase is a reference to a notice of increase under section 22(2), section 23(2) or section 25(2) of this Act.

(2) A notice of increase must be in the prescribed form.

(3) Notwithstanding that a notice of increase relates to statutory periods, it may be served during a contractual period; and where such a notice is served during a contractual period and the protected tenancy could, by a notice to quit served by the landlord at the same time, be brought to an end before the date specified in the notice of increase, the notice of increase shall operate to convert the protected tenancy into a statutory tenancy as from that date.

(4) If the county court is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, the court may by order amend the notice by correcting any errors or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the court so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

(5) Any amendment of a notice of increase under subsection (4) above may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the court to be just and reasonable.

(6) No increase of rent which becomes payable by reason of an amendment of a notice of increase under subsection (4) above shall be recoverable in respect of any statutory period which ended more than six months before the date of the order making the amendment.

Modifications applicable in special cases

27.—(1) The provisions of this section apply in relation to a protected or statutory tenancy of a dwelling-house which becomes a regulated tenancy by virtue of an order under section 8 of this Act. Protected and statutory tenancies converted by order into regulated tenancies.

(2) In relation to any rental period of a statutory tenancy to which this section applies beginning after the order comes into operation, sections 22 to 25 above shall have effect as if references therein to the last contractual period were references to the last rental period beginning before the order comes into operation.

(3) A notice of increase under section 22(2) of this Act served in respect of a protected or statutory tenancy to which this section applies shall only be valid if the rent specified in it does not exceed by more than 15 per cent. of the controlled rent the rent payable for the rental period beginning twelve months before the notice takes effect, except so far as the increase relates to such part of the rent registered under Part IV of this Act as may, in pursuance of the order referred to in subsection (1) above, be distinguished in the register as attributable

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to the provision of additional or improved services or furniture or the carrying out of an improvement.

(4) In subsection (3) above "the controlled rent" means the rent payable for the last rental period beginning before the order referred to in subsection (1) above comes into operation; and in ascertaining for the purposes of subsection (3) above the amount of the rent payable for any rental period, any amount payable in respect of rates borne by the landlord or a superior landlord shall be disregarded.

(5) A protected or statutory tenancy to which this section applies shall be disregarded for the purposes of section 20(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question.

Regulated tenancy following controlled tenancy on death of first successor.

28.—(1) The provisions of this section apply where, by virtue of paragraph 5 of Schedule 2 to this Act, a statutory tenancy which is a controlled tenancy is, on the death of the statutory tenant, followed by a statutory tenancy which is a regulated tenancy.

(2) In relation to any rental period of the statutory tenancy which is a regulated tenancy, sections 22 to 25 above shall have effect as if references therein to the last contractual period were references to the last rental period beginning before the death referred to in subsection (1) above.

(3) The statutory tenancy which is a regulated tenancy shall be disregarded for the purposes of section 20(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question.

Regulated tenancies of formerly requisitioned houses.
1955 c. 24.
1965 c. 75.

29.—(1) The provisions of this section apply in relation to a regulated tenancy of a dwelling-house which is a statutory tenancy subsisting under section 4 of the Requisitioned Houses and Housing (Amendment) Act 1955 (under which licensees of previously requisitioned property became statutory tenants of the owners) and which, by virtue of section 10(1) of the Rent Act 1965, fell to be treated as a regulated tenancy after 31st March 1966.

(2) In relation to any rental period of a regulated tenancy to which this section applies, sections 22 to 25 above shall have effect as if—

(a) references therein to the last contractual period were references to the last rental period beginning before 31st March 1966, and

(b) the rent recoverable for that last rental period had included any sum payable for that period by the local authority to the landlord under section 4(4) of the said Act of 1955 (which provided for payments to make

up the difference between the rent actually paid and the amount which would normally have been recoverable).

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(3) A regulated tenancy to which this section applies shall be disregarded for the purposes of section 20(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question.

30.—(1) A regulated tenancy of a dwelling-house commencing (whether before or after the commencement of this Act) while there is in operation a condition imposed under any of the enactments specified in subsection (2) below (which impose rent limits on tenancies of subsidised private houses) shall be disregarded for the purposes of section 20(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house.

Certain regulated tenancies to be disregarded in determining contractual rent limit.

(2) The enactments referred to in subsection (1) above are:—

- (a) section 2 of the Housing (Financial Provisions) Act 1924 c. 35. 1924 ;
- (b) section 3 of the Housing (Rural Workers) Act 1926 ; 1926 c. 56.
- (c) section 3 of the Housing (Financial Provisions) Act 1938 c. 16. 1938 or section 46(1) of the Housing (Financial Provisions) Act 1958 ; 1958 c. 42.
- (d) section 23 of the Housing Act 1949 ; and 1949 c. 60.
- (e) section 3 of the Housing Act 1952 or section 104(3) of the Housing Act 1957. 1952 c. 53. 1957 c. 56.

(3) A statutory tenancy deemed to arise by virtue of section 20(2) of the Rent Act 1965 (transitional provisions applicable to tenancies ending before commencement of that Act) shall be disregarded for the purposes of section 20(3)(a) above in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question. 1965 c. 75.

Grant-aided improvements and streetworks

31. Where, in respect of an improvement,—

Grant-aided improvements.

- (a) a grant has been made under section 30 of the Housing (Financial Provisions) Act 1958 (improvement grants), section 4 of the House Purchase and Housing Act 1959 (standard grants) or section 15 of the Airports Authority Act 1965 (grants towards cost of sound-proofing), or 1959 c. 33. 1965 c. 16.
- (b) a repayment has been made under section 12 of the Clean Air Act 1956 (adaptation of fireplaces in private dwellings), 1956 c. 52.

the reference in section 21(5) or, as the case may be, section 25(1) above to the amount expended on the improvement shall be construed as a reference to that amount diminished by the amount of the grant or repayment.

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Private street
works to
count as
improvements.
1959 c. 25.

32.—(1) The following provisions of this section apply where any dwelling-house which is the subject of a regulated tenancy has access to a street on which works have been carried out under—

(a) section 174, section 189 or section 190 of the Highways Act 1959 (which provide for certain authorities to execute street works in accordance with the Codes of 1875 and 1892), or

(b) the corresponding provisions of any local act.

(2) Subject to the following provisions of this section, the amount—

(a) of any expenditure incurred after 7th December 1965 by the landlord or a superior landlord in the carrying out of the works in question, or

(b) of any liability incurred after that date by the landlord or a superior landlord in respect of those works to the authority by whom they were carried out,

shall be treated (whether or not apart from this section it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement effected in the dwelling-house.

(3) Subsection (2)(b) above applies whether the liability mentioned in that subsection is dischargeable in a lump sum or by instalments, but for the purposes of this section interest shall be excluded in determining the amount of any liability which is dischargeable by instalments.

(4) If benefit accrues from the carrying out of the works not only to the dwelling-house but also to other premises of the landlord or superior landlord, then for the purposes of this section the amount to be treated as expenditure on an improvement effected in the dwelling-house shall be so much only of the expenditure or liability as may be determined by agreement in writing between the landlord and the tenant or by the county court.

(5) For the purposes of this section, the amount of any expenditure shall be treated as diminished by the amount of any contribution made in respect of that expenditure under any enactment.

(6) No application may be made under section 25(3) above in relation to an increase authorised by virtue of this section.

Enforcement provisions

Recovery from
landlord of
sums paid in
excess of
recoverable
rent, etc.

33.—(1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, then, subject to subsection (3) below, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(2) Subject to subsection (3) below, any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

(4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

34. Where, in any proceedings, the recoverable rent of a dwelling-house subject to a regulated tenancy is determined by a court, then, on the application of the tenant (whether in those or in any subsequent proceedings) the court may call for the production of the rent book or any similar document relating to the dwelling-house and may direct the registrar or clerk of the court to correct any entries showing, or purporting to show, the tenant as being in arrears in respect of any sum which the court has determined to be irrecoverable.

Rectification of rent books in light of determination of recoverable rent.

35.—(1) Where the rent payable for a contractual period of a regulated tenancy is subject to the contractual rent limit specified in paragraph (a) of section 20(3) of this Act, the landlord shall, on being so requested in writing by the tenant (whether during a contractual or a statutory period of the tenancy) supply him with a statement in writing of the rent which was payable for the last rental period of the other regulated tenancy referred to in that paragraph.

Duty of landlord to supply statement of rent under previous tenancy.

(2) If, without reasonable excuse, a landlord who has received such a request as is referred to in subsection (1) above—

- (a) fails to supply the statement referred to in that paragraph within twenty-one days of receiving the request, or
- (b) supplies a statement which is false in any material particular,

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(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

General provisions

Adjustment
for differences
in lengths
of rental
periods.

36. In ascertaining for the purposes of this Part of this Act whether there is any difference with respect to rents or rates between one rental period and another (whether of the same tenancy or not) or the amount of any such difference, any necessary adjustment shall be made to take account of periods of different lengths; and for the purposes of such an adjustment a period of one month shall be treated as equivalent to one-twelfth of a year and a period of a week as equivalent to one-fifty-second of a year.

Regulations.

37.—(1) The Minister may make regulations—

- (a) prescribing the form of any notice or other document to be given or used in pursuance of this Part of this Act; and
- (b) prescribing anything required or authorised to be prescribed by this Part of this Act.

(2) Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation
of Part III.

38.—(1) In this Part of this Act—

- “contractual period” means a rental period of a regulated tenancy which is a period beginning before the expiry or termination of the protected tenancy;
- “contractual rent limit” has the meaning assigned to it by section 20(1) of this Act;
- “improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;
- “prescribed” means prescribed by regulations under section 37 above, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form;

- “rates” includes water rates and charges but does not include an owner’s drainage rate as defined in section 24(2)(a) of the Land Drainage Act 1930; PART III
1930 c. 44
- “recoverable rent” means rent which, under a regulated tenancy, is or was for the time being recoverable, having regard to the provisions of this Part of this Act;
- “rental period” means a period in respect of which a payment of rent falls to be made;
- “statutory period” means any rental period of a regulated tenancy which is not a contractual period.

(2) References in this Part of this Act to rates, in respect of a dwelling-house, include references to such proportion of any rates in respect of a hereditament of which the dwelling-house forms part as may be agreed in writing between the landlord and the tenant or determined by the county court.

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REGISTRATION OF RENTS UNDER REGULATED TENANCIES

39.—(1) Subject to subsections (2) and (3) below, the registration areas for the purposes of this Part of this Act are the areas of the following local authorities, that is to say, the councils of counties, county boroughs and London Boroughs and the Common Council of the City of London. Registration areas.

(2) For the purposes of this Part of this Act, the area of the Common Council of the City of London shall be deemed to include the Inner Temple and the Middle Temple.

(3) For the purposes of this Part of this Act the Isles of Scilly shall be a registration area and the Council of the Isles of Scilly shall be the local authority for that registration area.

40.—(1) The Minister shall for every registration area make, after consultation with the local authority, a scheme providing for the appointment by the clerk to the local authority of such number of rent officers for the area as may be determined by or in accordance with the scheme and of deputy rent officers to exercise the functions of rent officers when rent officers are absent or incapacitated. Schemes for appointment of rent officers.

(2) A scheme under this section—

- (a) shall provide for the payment by the local authority to rent officers and deputy rent officers of remuneration and allowances in accordance with scales approved by the Minister with the consent of the Treasury;
- (b) shall prohibit the dismissal of a rent officer or deputy rent officer except by the clerk to the local authority on the direction or with the consent of the Minister;

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(c) shall require the local authority to provide for the rent officers office accommodation and clerical and other assistance ;

(d) shall allocate, or confer on the clerk to the local authority the duty of allocating, work as between the rent officers and shall confer on the clerk the duty of supervising the conduct of rent officers and deputy rent officers.

1937 c. 68.

(3) For the purposes of the Local Government Superannuation Act 1937 and any local Act scheme within the meaning of that Act rent officers and deputy rent officers appointed in pursuance of a scheme under this section shall be deemed to be officers in the employment of the local authority for whose area the scheme is made, and for the purposes of the National Insurance Act 1965 and the National Insurance (Industrial Injuries) Act 1965 they shall be deemed to be in that employment under a contract of service.

1965 c. 51.

1965 c. 52.

(4) References in this Part of this Act to the rent officer are references to any rent officer appointed for any area who is authorised to act in accordance with a scheme under this section.

(5) A scheme under this section may be varied or revoked by a subsequent scheme made thereunder.

1965 c. 75.

(6) Where different days were appointed for different parts of a registration area under section 21 of the Rent Act 1965 (which provided for the making of orders bringing into operation Part II of that Act, corresponding to this Part of this Act) a scheme under this section may be a separate scheme for such a part, and the preceding provisions of this section shall have effect, in relation to a scheme made for part of a registration area, as if references therein to the registration area were references to that part.

(7) The Minister shall, in respect of each financial year, make to any local authority incurring expenditure which is attributable to this section a grant equal to that expenditure.

Default powers of Minister.

41.—(1) If the Minister is of opinion that a local authority have failed to carry out any function conferred on them by a scheme under section 40 above he may, after such enquiry as he thinks fit, by order revoke the scheme and, without consulting the local authority, make another scheme under that section.

(2) A scheme made by virtue of subsection (1) above may confer functions otherwise exercisable by the local authority or the clerk to the local authority on a person appointed by the Minister and that person may, if another local authority consent,

be that other local authority or, as the case may be, the clerk to that other local authority. PART IV

(3) If the Minister is of opinion that the clerk to the local authority has failed to carry out any functions conferred on the clerk by a scheme under section 40 above he may (after consultation with the local authority) exercise his power under subsection (5) of that section by making a scheme providing for all or any of the functions otherwise exercisable by the clerk to be exercised by some other person.

(4) A scheme made by virtue of this section may contain such incidental and transitional provisions as appear to the Minister to be necessary or expedient.

42. Rent assessment committees shall be constituted in accordance with the provisions of Schedule 5 to this Act. Rent assessment committees.

43.—(1) The rent officer for any area shall prepare and keep up to date a register for the purposes of this Part of this Act and shall make the register available for inspection in such place or places and in such manner as may be provided by the scheme made for the area under section 40 above. Register of rents.

(2) The register shall contain, in addition to the rent payable under a regulated tenancy of a dwelling-house—

- (a) the prescribed particulars with regard to the tenancy ;
and
- (b) a specification of the dwelling-house.

(3) A copy of an entry in the register certified under the hand of the rent officer or any person duly authorised by him shall be receivable in evidence in any court and in any proceedings.

(4) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.

44.—(1) An application for the registration of a rent for a dwelling-house may be made to the rent officer by the landlord or the tenant, or jointly by the landlord and the tenant, under a regulated tenancy of the dwelling-house. Applications for registration of rents.

(2) Any such application must be in the prescribed form and contain the prescribed particulars in addition to the rent which it is sought to register.

(3) Where a rent for a dwelling-house has been registered under this Act no application by the tenant alone or by the landlord alone for the registration of a different rent for that dwelling-house shall be entertained before the expiry of three

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years from the relevant date (as defined in subsection (4) below) except on the ground that, since that date, there has been such a change in the condition of the dwelling-house (including the making of any improvement therein), the terms of the tenancy or any other circumstances taken into consideration when the rent was registered or confirmed as to make the registered rent no longer a fair rent.

(4) In this section and the next following section “the relevant date”, in relation to a rent which has been registered under this Part of this Act, means the following date, that is to say,—

- (a) where on an application for the registration of a different rent the registered rent has been confirmed, the date of that application or, if there was more than one such application, the date of the last of them ; and
- (b) in any other case, the date on which the registration of rent took effect.

(5) No application for the registration of a rent for a dwelling-house shall be entertained at a time when there is in operation, with respect to that dwelling-house, a condition relating to rent imposed under any of the following enactments, that is to say,—

- 1924 c. 35. (a) section 2 of the Housing (Financial Provisions) Act 1924 ;
- 1926 c. 56. (b) section 3 of the Housing (Rural Workers) Act 1926 ;
- 1938 c. 16. (c) section 3 of the Housing (Financial Provisions) Act 1938 or section 46(1) of the Housing (Financial Provisions) Act 1958 ; or
- 1958 c. 42.
- 1957 c. 56. (d) section 104(3) of the Housing Act 1957.

(6) Subject to sections 45(4) and 49(3) below, the provisions of Part I of Schedule 6 to this Act shall have effect with respect to the procedure to be followed on applications for the registration of rents.

Certificates
of fair rent.

45.—(1) A person intending—

- (a) to provide a dwelling-house by the erection or conversion of any premises or to make any improvements in a dwelling-house, or
- (b) to let on a regulated tenancy a dwelling-house which is not for the time being subject to such a tenancy and which satisfies the condition either that no rent for it is registered under this Part of this Act or that

a rent is so registered but not less than three years have elapsed since the relevant date (as defined in section 44(4) above),

may apply to the rent officer for a certificate, to be known as a certificate of fair rent, specifying a rent which, in the opinion of the rent officer, would be a fair rent under a regulated tenancy of the dwelling-house or, as the case may be, of the dwelling-house after the erection or conversion or after the completion of the improvements.

(2) The regulated tenancy to which the application for the certificate of fair rent relates shall be assumed to be a tenancy on such terms as may be specified in the application and, except in so far as other terms are so specified, on the terms that the tenant would be liable for internal decorative repairs, but no others, and that no services or furniture would be provided for him.

(3) The provisions of Schedule 7 to this Act shall have effect with respect to applications for certificates of fair rent.

(4) Subject to section 44(5) above, where a certificate of fair rent has been issued in respect of a dwelling-house, an application for the registration of a rent for the dwelling-house in accordance with the certificate may be made within three years of the date of the certificate either,—

- (a) by the landlord under such a regulated tenancy of the dwelling-house as is specified in the certificate ; or
- (b) by a person intending to grant such a regulated tenancy of the dwelling-house ;

and, in lieu of the provisions of Part I of Schedule 6 to this Act, the provisions of Part II of that Schedule shall have effect with respect to an application so made.

46.—(1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had, subject to the following provisions of this section, to all the circumstances (other than personal circumstances) and in particular to the age, character and locality of the dwelling-house and to its state of repair. Determination of fair rent.

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

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(3) There shall be disregarded—

- (a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and
- (b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his.

Amount to be registered as rent.

47.—(1) The amount to be registered as the rent of any dwelling-house shall include any sums payable by the tenant to the landlord for the use of furniture or for services, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house or are payable under separate agreements.

(2) Where any rates in respect of a dwelling-house are borne by the landlord or a superior landlord, the amount to be registered under this Part of this Act as the rent of the dwelling-house shall be the same as if the rates were not so borne; but the fact that they are so borne shall be noted on the register.

(3) Where subsection (2) above applies, the amount of the rates for any rental period, ascertained in accordance with Schedule 4 to this Act,—

- (a) shall be added to the limit imposed by section 20(2) of this Act; and
- (b) if the rental period is a statutory period, as defined in section 38 of this Act, shall be recoverable, without service of any notice of increase, in addition to the sums recoverable from the tenant apart from this subsection.

(4) Where, under a regulated tenancy, the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord or a superior landlord or of any works of maintenance or repair carried out by the landlord or a superior landlord, the amount to be registered under this Part of this Act as rent may, if the rent officer is satisfied or, as the case may be, the rent assessment committee are satisfied, that the terms as to the variation are reasonable, be entered as an amount variable in accordance with those terms.

Effect of registration of rent.

48.—(1) The registration of any rent for a dwelling-house shall take effect as from the date of the application unless the rent officer or, as the case may be, the rent assessment committee determine that it shall take effect as from a later date.

(2) The date from which the registration takes effect shall be entered in the register and as from that date any previous registration of a rent for the dwelling-house shall cease to have effect.

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(3) Where a valid notice of increase under any provision of Part III of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.

49.—(1) The provisions of this section apply where a condition relating to rent has been imposed with respect to a dwelling-house under section 33 of the Housing (Financial Provisions) Act 1958 (conditions appropriate to improvement grants) or under that section as extended by section 7 of the House Purchase and Housing Act 1959 (application of conditions in relation to standard grants). Dwelling-houses improved with local authority assistance. 1958 c. 42. 1959 c. 33.

(2) If no rent for the dwelling-house is registered under this Part of this Act, no application for the registration of such a rent shall be entertained while the condition in question is in operation.

(3) If a rent for the dwelling-house different from the limit imposed by the condition in question is registered under this Part of this Act, Part I of Schedule 6 to this Act shall not apply in relation to an application for the registration of a rent equal to that limit made by the landlord under a regulated tenancy of the dwelling-house, but on an application so made the rent officer shall register that rent.

(4) If the limit imposed by the condition in question includes an amount in respect of any rates borne or to be borne by the landlord or a superior landlord, that limit shall be treated for the purposes of this section as reduced by that amount.

50.—(1) The Minister may make regulations—

Regulations.

- (a) prescribing the form of any notice, application, register or other document to be given, made or used in pursuance of this Part of this Act ;
- (b) regulating the procedure to be followed by rent officers and rent assessment committees ; and
- (c) prescribing anything required or authorised to be prescribed by this Part of this Act.

(2) Regulations under subsection (1)(b) above may contain provisions modifying section 44, section 45, section 48, or section

PART IV

49 of this Act or Schedule 6 or Schedule 7 thereto; but no regulations containing such provisions shall have effect unless approved by a resolution of each House of Parliament.

(3) Regulations made under this section shall be made by statutory instrument which, except in a case falling within subsection (2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation
of Part IV.

51.—(1) In this Part of this Act—

“improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair;

“prescribed” means prescribed by regulations under section 50 above, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form;

“rates” includes water rates and charges but does not include an owner’s drainage rate as defined in section 24(2)(a) of the Land Drainage Act 1930; and

“rental period” means a period in respect of which a payment of rent falls to be made.

1930 c. 44.

(2) References in this Part of this Act to rates, in respect of a dwelling-house, include references to such proportion of any rates in respect of a hereditament of which the dwelling-house forms part as may be agreed in writing between the landlord and the tenant or determined by the county court.

PART V

RENTS UNDER CONTROLLED TENANCIES

The rent limit

Rent limit for
controlled
tenancies.

52.—(1) Subject to the following provisions of this Part of this Act, the rent recoverable for any rental period from the tenant under a controlled tenancy shall not exceed the following limit, that is to say, a rent of which the annual rate is equal to the aggregate of—

(a) the 1956 gross value of the dwelling, determined in accordance with Schedule 8 to this Act and multiplied by the appropriate factor;

(b) the annual amount, ascertained in accordance with Schedule 4 to this Act, of any rates for the basic rental period, being rates borne by the landlord or a superior landlord; and

(c) such annual amount as may have been (or may be) agreed in writing between the landlord and the tenant or determined by the county court to be a reasonable charge for any services for the tenant provided by the landlord or a superior landlord during the basic rental period or for any furniture which, under the terms of the tenancy, the tenant was (or is) entitled to use during that period.

(2) The appropriate factor referred to in subsection (1)(a) above shall be determined as follows,—

(a) in any case where the responsibility for repairs is as specified in Part I of Schedule 9 to this Act, the appropriate factor shall be that specified in that Part of that Schedule, and

(b) in any other case, the appropriate factor shall be two.

(3) The limit on the rent recoverable under a controlled tenancy for any rental period (in the following provisions of this Part of this Act referred to as “the rent limit”) shall be subject to adjustment from time to time under sections 54 to 56 below and to reductions as provided by Part II of Schedule 9 to this Act in case of disrepair.

(4) Where under a controlled tenancy current on 6th July 1957, the rent recoverable for the basic rental period exceeded what would have been the rent limit for that period if ascertained under subsection (1) above, then, subject to subsection (3) above, the rent limit shall be the rent recoverable for that period.

Revision of rent and rent limits

53.—(1) If the rent for the time being recoverable under a controlled tenancy is less than the rent limit it may be increased up to that limit subject to and in accordance with the following provisions of this section. Procedure for increasing rents.

(2) Subject to the provisions of Part II of Schedule 9 to this Act and to the following provisions of this section, the rent may be increased as mentioned in subsection (1) above by the service by the landlord on the tenant of a notice of increase in the prescribed form specifying the amount of the increase; but—

(a) the increase shall not have effect with respect to any rental periods beginning before such date as may be specified in the notice which, except in a case authorised by section 54(2) or section 56(4) below, shall be a date not earlier than three months after the service of the notice; and

PART V

(b) the total of the increases which may be specified in any notice or notices of increase as taking effect less than nine months after service of the first notice (excluding any increases which, under section 54(3) or section 56(4) below, are to be disregarded) shall not exceed seven shillings and sixpence per week, but a notice may specify more than one date and amount.

(3) Except in so far as may be necessary for giving effect to an adjustment under section 54 or section 56 below, a notice of increase shall be of no effect if given at a time when—

1957 c. 56.

(a) the dwelling is within a clearance area under the Housing Act 1957 or is or forms part of premises with respect to which a demolition order or closing order under that Act has been made and has not ceased to be in force ; or

(b) works of repair remain unexecuted which were required to be executed—

1936 c. 49.

(i) by an order relating to the dwelling made under section 94 of the Public Health Act 1936 (nuisance orders where local authority abatement notices are disregarded) against the landlord or any person receiving rent as agent for the landlord ; or

(ii) by a notice relating to the dwelling given to the landlord or any such person under section 9 of the Housing Act 1957 (notices to repair houses unfit for human habitation).

(4) Except in so far as may be necessary for giving effect to an adjustment under section 54 or section 56 below, if the date specified in a notice of increase in accordance with subsection (2)(a) above falls at a time when the condition specified in paragraph (a) or paragraph (b) of subsection (3) above is fulfilled, no increase shall be recoverable by virtue of the notice for any rental period beginning at any such time.

(5) Where the landlord is a body corporate incorporated outside the United Kingdom, the preceding provisions of this section shall have effect subject to the provisions of Part III of Schedule 9 to this Act.

Adjustment
with respect
to rates
borne by
landlord.

54.—(1) Where any rates in respect of the dwelling are borne by the landlord or a superior landlord, then, for any rental period for which the amount of the rates, ascertained in accordance with Schedule 4 to this Act, differs from the amount, so ascertained, of the rates for the basic rental period,

the rent limit shall be increased or decreased by the amount of the difference.

PART V

(2) In so far as a notice of increase relates to an increase of rent authorised by this section, the date specified in the notice may be any date not earlier than six weeks before the service of the notice and, if it is earlier than the service of the notice, any rent underpaid shall become due on the day after the service of the notice.

(3) Any increase of rent authorised by this section shall be disregarded for the purposes of paragraph (b) of section 53(2) above.

55.—(1) Where, for any rental period, there is with respect to—

(a) the provision of services for the tenant by the landlord or a superior landlord, or

(b) the use of furniture by the tenant under the terms of the tenancy,

Adjustment with respect to services and furniture.

or any circumstances relating thereto any difference, in comparison with the basic rental period, such as to affect the amount of the rent which it is reasonable to charge, the rent limit shall be increased or decreased by an appropriate amount.

(2) Where, for any rental period, the rent limit is increased by an appropriate amount under subsection (1) above, the rent for that period shall, notwithstanding anything in section 53 above and without the service of any notice, be increased by the like amount.

(3) Any question whether, or by what amount, the rent limit is increased or decreased by virtue of subsection (1) above shall be determined by agreement in writing between the landlord and the tenant or by the county court; and any such determination—

- (a) may be made so as to relate to past rental periods; and
- (b) shall have effect with respect to rental periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in this subsection or by the county court.

56.—(1) If an improvement has been effected in a dwelling and the improvement was completed after 5th July 1957 then, subject to section 57 below, the rent limit under any controlled tenancy of the dwelling for rental periods beginning after the completion of the improvement shall be increased by the appropriate percentage per annum of the amount expended

Increase for improvements.

PART V

on the improvement by the landlord or any superior landlord or any person from whom the landlord or any superior landlord derives title.

(2) The appropriate percentage referred to in subsection (1) above shall be determined as follows, that is to say:—

- (a) if the improvement was completed before 24th November 1961, the appropriate percentage is 8 per cent. ; and
- (b) if the improvement was completed on or after that date then, subject to subsection (3) below, the appropriate percentage is 12½ per cent.

(3) If an improvement completed on or after 24th November 1961 was carried out in reliance on a consent granted before that date by a tenant under the controlled tenancy, the appropriate percentage referred to in subsection (1) above is 8 per cent., and not 12½ per cent., unless the consent was in writing and contained an acknowledgement (however expressed) that the rent could be increased on account of the improvement to a stated amount which was at least the maximum of the rent limit as it would then have been if increased, in accordance with subsection (1) above, on the basis that the appropriate percentage was 12½ per cent.

(4) In so far as a notice of increase relates to an increase of rent authorised by this section, the date specified in the notice may be any date after the service of the notice, and any such increase shall be disregarded for the purposes of paragraph (b) of section 53(2) above.

(5) Where in pursuance of a proposal made on the ground of a change in the occupier or circumstances of occupation, the gross value which, under Schedule 8 to this Act, is material in determining the 1956 gross value of a dwelling in which an improvement has been effected has been varied so as to take account of the state of the dwelling at a date after 5th July 1957, then, in relation to that dwelling, a reference to that date shall be substituted for the reference in subsection (1) above to 5th July 1957.

57.—(1) Where, in respect of an improvement,—

- (a) a grant has been made under section 20 of the Housing Act 1949 or section 30 of the Housing (Financial Provisions) Act 1958 (improvement grants), section 4 of the House Purchase and Housing Act 1959 (standard grants) or section 15 of the Airports Authority Act 1965 (grants towards cost of sound-proofing), or

Grant-aided
improvements,
etc.

1949 c. 60.
1958 c. 42.
1959 c. 33.
1965 c. 16.

- (b) a repayment has been made under section 12 of the **PART V**
Clean Air Act 1956 (adaptation of fireplaces in private dwellings) 1956 c. 52.

the reference in section 56(1) above to the amount expended on the improvement shall be construed as a reference to that amount diminished by the amount of the grant or repayment.

(2) Where an improvement is effected in a dwelling in compliance with an immediate improvement notice or a final improvement notice within the meaning of Part II of the Housing Act 1964 (compulsory improvement of dwellings to provide standard amenities) or in compliance with an undertaking accepted under that Part of that Act, and 1964 c. 56.

- (a) the landlord, or a predecessor in title of the landlord, is the person who expended money on the improvement, and

- (b) a standard grant under section 4 of the House Purchase and Housing Act 1959 in respect of the improvement, although obtainable, has not been obtained, 1959 c. 33.

the reference in section 56(1) above to the amount expended on the improvement shall be construed as a reference to that amount diminished by the amount of the standard grant which could have been obtained in respect of the improvement.

(3) In a case falling within subsection (2) above, the local authority in whose district the dwelling is situated shall, at the request in writing of the landlord or the tenant, give him an estimate in writing of what the amount of the standard grant would have been if it had been obtained.

(4) In any proceedings relating to an increase of rent authorised by section 56 above in a case falling within subsection (2) above, it shall be assumed, until the contrary is proved, that a standard grant was obtainable in respect of the improvement and, for the purposes of any such proceedings, an estimate under subsection (3) above shall be sufficient evidence of what the amount of that grant would have been.

(5) In this section "local authority" means the council of a county borough, London borough, county district or the Common Council of the City of London.

58.—(1) The following provisions of this section apply where a dwelling which is the subject of a controlled tenancy has access to a street on which works have been carried out under—
Private street works to count as improvements, 1959 c. 25.

- (a) section 174, section 189 or section 190 of the Highways Act 1959 (which provide for certain authorities to

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execute street works in accordance with the Codes of 1875 and 1892), or

(b) the corresponding provisions of any local Act.

(2) Subject to the following provisions of this section, the amount—

(a) of any expenditure incurred after 5th July 1957 by the landlord or a superior landlord in the carrying out of the works in question, or

(b) of any liability incurred after that date by the landlord or a superior landlord in respect of those works to the authority by whom they were carried out,

shall be treated (whether or not apart from this section it would be so treated) as expenditure incurred by the landlord or superior landlord on an improvement as mentioned in section 56(1) above.

(3) Subsection (2)(b) above applies whether the liability mentioned in that subsection is dischargeable in a lump sum or by instalments, but, for the purposes of this section, interest shall be excluded in determining the amount of any liability which is dischargeable by instalments.

(4) If benefit accrues from the carrying out of the works not only to the dwelling but also to other premises of the landlord or superior landlord, the amount to be treated as mentioned in subsection (2) above shall be so much only of the expenditure or liability as may be determined, by agreement in writing between the landlord and the tenant or by the county court, to be properly apportionable to the dwelling, having regard to the benefit accruing, from the carrying out of the works, to the dwelling and to the other premises.

(5) Any apportionment made by the county court under subsection (4) above shall be final and conclusive.

(6) For the purposes of this section the amount of any expenditure shall be treated as diminished by the amount of any contribution paid in respect of that expenditure under any enactment.

Tenant's
right to
challenge
amount of
expenditure
on
improvements.

59.—(1) Subject to the following provisions of this section, a tenant on whom a notice specifying an increase authorised by section 56 above is served may, not later than one month after the service of the notice or such longer time as the court may allow, apply to the county court for an order cancelling or reducing the increase on the ground that the improvement in question was unnecessary or that a greater amount was expended on it than was reasonable, and the court may make an order

accordingly which may relate not only to future but also to past rental periods.

PART V

(2) No application shall be made under this section on the ground that an improvement was unnecessary if—

- (a) any such grant as is referred to in section 57(1)(a) above has been made in respect of the improvement ; or
- (b) a tenant under the controlled tenancy consented in writing to the improvement and the consent contained an acknowledgment (however expressed) that the rent could be increased on account of the improvement.

(3) No application shall be made under this section in relation to any increase authorised by virtue of section 58 above.

60.—(1) Neither a notice of increase nor section 55 above shall operate to increase the rent under a controlled tenancy for any rental period which begins at a time when the controlled tenancy is a protected tenancy, except in so far as may be consistent with the terms of the tenancy. Variations of rent during protected tenancies.

(2) Where a notice of increase is served during the currency of a protected tenancy which could, by a notice to quit served by the landlord at the same time, be brought to an end before the date or the earliest date specified in the notice of increase, the notice of increase shall operate to convert the protected tenancy into a statutory tenancy as from that date.

(3) If, in the case of a controlled tenancy which was current on 6th July 1957,—

- (a) the basic rental period began at a time when the controlled tenancy was a protected tenancy, and
- (b) the rent recoverable for the basic rental period included an increase agreed or determined under section 40 of the Housing Repairs and Rents Act 1954 (increase for rise in cost of services provided under pre-1939 lettings) in respect of services which the landlord was not under the terms of the tenancy liable to provide,

then, if those services are withheld in whole or in part during any rental period beginning during the currency of the protected tenancy, the rent recoverable for that period shall be decreased by an appropriate amount.

(4) Any question whether, or by what amount, the recoverable rent is decreased by virtue of subsection (3) above shall be determined by agreement in writing between the landlord and the tenant or by the county court ; and any such determination—

- (a) may be made so as to relate to past rental periods ; and

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(b) shall have effect with respect to rental periods subsequent to the periods to which it relates until revoked or varied by any such agreement as is referred to in this subsection or by the county court.

(5) Subject to subsections (3) and (4) above, nothing in this Part of this Act shall affect the operation of any lease or agreement in so far as it provides for a reduction of rent during the currency of a protected tenancy.

Errors and misrepresentations in notices of increase.

61.—(1) If the county court is satisfied that any error or omission in a notice of increase is due to a bona fide mistake on the part of the landlord, the court may by order amend the notice by correcting any errors or supplying any omission therein which, if not corrected or supplied, would render the notice invalid and, if the court so directs, the notice as so amended shall have effect and be deemed to have had effect as a valid notice.

(2) Any such amendment of a notice of increase may be made on such terms and conditions with respect to arrears of rent or otherwise as appear to the court to be just and reasonable.

(3) No increase of rent which becomes payable by reason of an amendment of a notice of increase under subsection (1) above shall be recoverable in respect of any rental period which ended more than six months before the date of the order making the amendment.

(4) If a notice of increase contains any statement or representation which is false or misleading in any material respect, the landlord shall be liable to a fine not exceeding £50 unless he proves that the statement was made innocently and without intent to deceive.

Enforcement provisions

Recovery from landlord of sums paid in excess of recoverable rent, etc.

62.—(1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, then, subject to subsection (3) below, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(2) Subject to subsection (3) below, any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

(4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(5) If, where any such entry has been made by or on behalf of any landlord, the landlord, on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

63.—(1) Where, in any proceedings for possession, in such circumstances as are specified in Case 9 in Schedule 3 to this Act, of a dwelling-house subject to a controlled tenancy—

- Determination by court of recoverable rent of sublet part of dwelling-house subject to controlled tenancy.
- (a) the sublet part in question is subject to a controlled tenancy, and
 - (b) it appears to the court that no determination of the recoverable rent of the sublet part has previously been made by the county court,

the court shall make such a determination, whether or not an order is made for possession of the dwelling-house.

(2) The provisions of subsection (3) below apply where the county court has determined the recoverable rent of a dwelling-house which is subject to a controlled tenancy and is itself a sublet part of another dwelling-house subject to a controlled tenancy (in this section referred to as the “superior tenancy”).

(3) If, after the determination referred to in subsection (2) above, the rent charged by the tenant under the superior tenancy for the sublet part is in excess of the recoverable rent of that part, the tenant shall be guilty of an offence under this section unless he proves—

- (a) that he did not know and could not by reasonable inquiry have ascertained that the rent charged by him was in excess of the recoverable rent; or
- (b) that the excess was solely due to an accidental miscalculation.

(4) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

64. Where, in any proceedings, the recoverable rent of a dwelling-house subject to a controlled tenancy is determined by a court, then, on the application of the tenant (whether in those or in any subsequent proceedings) the court may call for the production of the rent book or any similar document relating to

Rectification of rent books in light of determination of recoverable rent.

PART V

the dwelling-house and may direct the registrar or clerk of the court to correct any entries showing, or purporting to show, the tenant as being in arrears in respect of any sum which the court has determined to be irrecoverable.

General provisions

Service of notices, etc.

65.—(1) Any notice, certificate or other document required or authorised to be served under this Part of this Act may be served either—

- (a) by delivering it to the person on whom it is to be served,
or
- (b) by leaving it at the usual or last known place of abode of that person, or
- (c) by sending it by the recorded delivery service or by registered post in a prepaid letter addressed to that person at his usual or last known place of abode, or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it, by the recorded delivery service or by registered post, in a prepaid letter addressed to the secretary or clerk of the company or body at that office, or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of an owner, lessee or occupier of land on whom it should be served, by addressing it to him by the description of “owner” or “lessee” or “occupier” of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(2) Without prejudice to the generality of subsection (1) above, that subsection shall apply to the service, by virtue of section 109 of this Act, of any notice, certificate or other document as is mentioned in subsection (1) above on an agent of the landlord or a person receiving the rent.

Regulations.

66.—(1) The Minister may make regulations prescribing forms for notices, certificates and other documents required or authorised under this Part of this Act and requiring such notices, certificates and documents to contain such information as may be specified in the regulations.

(2) Any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

67.—(1) In this Part of this Act, except in so far as the context otherwise requires,—

PART V
Interpretation
of Part V.

- “appropriate factor” means the number by which the 1956 gross value is to be multiplied in determining the rent limit;
- “basic rental period” means the rental period comprising 6th July 1957 or, in the case of a controlled tenancy beginning after that date, the first rental period of the tenancy;
- “dwelling” means, in relation to a controlled tenancy, the aggregate of the premises comprised in the tenancy;
- “improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings but does not include anything done by way of decoration or repair;
- “notice of increase” means a notice of increase under section 53 of this Act;
- “prescribed” means prescribed by regulations under section 66 above, and references to a prescribed form include references to a form substantially to the same effect as the prescribed form;
- “rates” includes water rents and charges but does not include an owner’s drainage rate as defined in section 24(2)(a) of the Land Drainage Act 1930;
- “recoverable rent” means rent which, under a controlled tenancy, is or was for the time being recoverable, having regard to the provisions of this Part of this Act;
- “rental period” means a period in respect of which a payment of rent falls to be made;
- “the rent limit” has the meaning assigned to it by section 52(3) of this Act;
- “tenant”, in relation to a landlord, and “sub-tenant”, in relation to a tenant, mean respectively immediate tenant and immediate sub-tenant;
- “1956 gross value”, in relation to a dwelling, means that value as determined in accordance with Schedule 8 to this Act.

1930 c. 44.

(2) Any reference in this Part of this Act to rent does not include any sums recoverable as rent under section 16 of the Landlord and Tenant Act 1927 (which enables landlords to recover as rent sums in respect of increases in taxes, rates or fire premiums ascribable to improvements made by tenants), other than—

- (a) sums so recoverable in respect of increases in rates, or

PART V

(b) sums referable to improvements executed by the tenant before 1st April 1956, or

(c) sums referable to improvements executed by him after that date but affecting the 1956 gross value by reason of a proposal made before 1st April 1957.

1949 c. 40.

(3) In determining the amount of any rent for the purposes of this Part of this Act, no account shall be taken of any deduction falling to be made under Schedule 1 to the Landlord and Tenant (Rent Control) Act 1949 (which provided in certain cases for the recovery of premiums by deduction from rent and the operation of which is preserved by Schedule 16 to this Act.)

(4) Except in so far as the context otherwise requires, references in this Part of this Act to rates, in respect of a dwelling, include references to such proportion of any rates in respect of a hereditament of which the dwelling forms part as may be agreed in writing between the landlord and the tenant or determined by the county court; and any apportionment of rates made by the county court for the purposes of this Part of this Act shall be final and conclusive.

PART VI

FURNISHED LETTINGS

*Application of Part VI*Operation
of Part VI.

1946 c. 34.

68.—(1) Subject to subsection (2) below, this Part of this Act shall have effect in each of the districts (consisting of the whole or part of the area of a local authority and together comprising the areas of all the local authorities in England and Wales) in which the Furnished Houses (Rent Control) Act 1946 was in force immediately before the commencement of this Act.

(2) The Minister may by order under this section direct that such part of a district in which this Part of this Act has effect as is specified in the order shall be excepted therefrom and be a separate district in which this Part of this Act has effect.

(3) The power to make an order under this section shall be exercisable by statutory instrument.

Rent
tribunals.

69.—(1) For each district in which this Part of this Act has effect there shall be a tribunal (in this Part of this Act referred to as a “rent tribunal”) but, if the Minister so directs, the same tribunal may act for more than one district.

(2) The provisions of Schedule 10 to this Act shall have effect with respect to rent tribunals.

70.—(1) Subject to the following provisions of this section, **PART VI** this Part of this Act applies to a contract, whether entered into **Part VI** before or after the commencement of this Act, whereby one **contracts.** person grants to another person, in consideration of a rent which includes payment for the use of furniture or for services, the right to occupy as a residence a dwelling to which this Part of this Act applies and which is situated in a district in which this Part of this Act has effect.

(2) Subject to subsections (3) and (4) below, a contract falling within subsection (1) above and relating to a dwelling which consists of only part of a house is a contract to which this Part of this Act applies whether or not the lessee is entitled, in addition to exclusive occupation of that part, to the use in common with any other person of other rooms or accommodation in the house.

(3) This Part of this Act does not apply—

- (a) to a contract under which the interest of the lessor belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or is held in trust for Her Majesty for the purposes of a government department; nor
- (b) to a contract for the letting of any premises at a rent which includes payment in respect of board if the value of the board to the lessee forms a substantial proportion of the whole rent; nor
- (c) to a contract which creates a regulated tenancy.

(4) If, immediately before the revocation of Regulation 68CB of the Defence (General) Regulations 1939, accommodation was registered for the purposes of that regulation and was let in accordance with the terms and conditions so registered, nothing in this Part of this Act applies to any contract for the letting of the accommodation so long as any letting continues under which the accommodation was let in accordance with the terms and conditions on which it was let immediately before the revocation.

(5) No right to occupy a dwelling for a holiday shall be treated for the purposes of this Part of this Act as a right to occupy it as a residence.

(6) A contract to which this Part of this Act applies is, in the following provisions of this Part of this Act, referred to as a “ Part VI contract ”.

PART VI
Dwellings
to which
Part VI
applies.

71.—(1) Subject to the following provisions of this section this Part of this Act applies to any dwelling which has or had, on the appropriate day, a rateable value not exceeding—

- (a) if it is in Greater London, £400, or
- (b) if it is elsewhere, £200.

(2) The Minister may by order under this section provide that, as from such date as may be specified in the order, this Part of this Act shall not apply to a dwelling the rateable value of which on such day as may be specified in the order exceeds such amount as may be so specified.

(3) An order under this section—

- (a) may be made so as to relate to the whole of England and Wales or to such area in England and Wales as may be specified in the order, and so as to apply generally or only to, or except to, such classes or descriptions of dwellings as may be specified in the order; and
- (b) may contain such transitional provisions as appear to the Minister to be desirable.

(4) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

Control of rents

Reference
of contracts
to rent
tribunals and
obtaining
by them of
information.

72.—(1) Either the lessor or the lessee under a Part VI contract or the local authority may refer the contract to the rent tribunal for the district in question.

(2) Where a Part VI contract is referred to a rent tribunal under subsection (1) above they may, by notice in writing served on the lessor, require him to give to them, within such period (which shall not be less than seven days from the date of the service of the notice) as may be specified in the notice, such information as they may reasonably require regarding such of the prescribed particulars relating to the contract as are specified in the notice.

(3) If, within the period specified in a notice under subsection (2) above, the lessor fails without reasonable cause to comply with the provisions of the notice he shall be liable on a first conviction to a fine not exceeding £50 and on a second or subsequent conviction to a fine not exceeding £100.

(4) Proceedings for an offence under this section shall not be instituted otherwise than by the local authority.

73.—(1) Where a Part VI contract is referred to a rent tribunal and the reference is not, before the tribunal have entered upon consideration of it, withdrawn by the party or authority who made it, the tribunal shall consider it and then, after making such inquiry as they think fit and giving to each party to the contract and, if the dwelling is one the general management whereof is vested in and exercisable by a housing authority, to that authority, an opportunity of being heard or, at his or their option, of submitting representations in writing, the tribunal, subject to subsections (2) and (3) below,—

PART VI
Powers of rent tribunals on reference of contracts.

- (a) shall approve the rent payable under the contract, or
- (b) shall reduce the rent to such sum as they may, in all the circumstances, think reasonable, or
- (c) may, if they think fit in all the circumstances, dismiss the reference,

and shall notify the parties and the local authority of their decision.

(2) On the reference of a Part VI contract relating to a dwelling for which a rent is registered under Part IV of this Act, the rent tribunal may not reduce the rent payable under the contract below the amount which would be recoverable from the tenant under a regulated tenancy of the dwelling.

(3) Where, on the reference of a Part VI contract under which the rent includes payments for services, the rent tribunal are of opinion that it would be proper that the rent payable for the dwelling should include an amount in respect of any increase since 3rd September 1939 in the cost of providing those services, and are also of opinion that in all the circumstances a rent higher than the rent payable under the contract might properly be chargeable for the dwelling in order to include an amount in respect of that increase, the rent tribunal may approve a rent higher by not more than such amount as they think reasonable in that respect.

(4) An approval, reduction or increase under this section may be limited to rent payable in respect of a particular period.

(5) Notwithstanding anything in this Part of this Act, a rent tribunal shall not be required to entertain a reference made otherwise than by the local authority if they are satisfied, having regard to the length of time elapsing since a previous reference made by the same party or to other circumstances, that the reference is frivolous or vexatious.

(6) In subsection (1) above, "housing authority" means a council which is a local authority for the purposes of Part V of the Housing Act 1957.

1957 c. 56.

PART VI
Register of
rents under
Part VI
contracts.

74.—(1) The local authority shall prepare and keep up to date a register for the purposes of this Part of this Act and shall make the register available for inspection in such place or places and in such manner as the Minister may direct.

(2) The register shall be so prepared and kept up to date as to contain, with regard to any contract relating to a dwelling situated in the area of the local authority and under which a rent is payable which has been approved, reduced or increased under section 73 above, entries of—

- (a) the prescribed particulars with regard to the contract ;
- (b) a specification of the dwelling to which the contract relates ; and
- (c) the rent as approved, reduced or increased by the rent tribunal, and, in a case in which the approval, reduction or increase is limited to rent payable in respect of a particular period, a specification of that period.

(3) It shall be the duty of the rent tribunal when, under section 73(1) above, they notify the local authority of their decision in a case, to furnish to the local authority such particulars as are requisite for enabling them to discharge their functions under the preceding provisions of this section.

(4) A copy of an entry in the register certified under the hand of an officer duly authorised in that behalf by the local authority shall be receivable in evidence in any court and in any proceedings.

(5) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.

Reconsideration of rent after registration.

75.—(1) Where the rent payable for any dwelling has been entered in the register under section 74 above, the lessor or the lessee or the local authority may refer the case to the rent tribunal for reconsideration of the rent so entered on the ground of change of circumstances.

(2) In its application to a reference under subsection (1) above, section 73 above shall have effect with the modification that the rent tribunal shall have power under subsection (1) of that section to increase the rent payable.

Effect of registration of rent.

76.—(1) Where the rent payable for any dwelling is entered in the register under section 74 above, it shall not be lawful to require or receive on account of rent for that dwelling under a Part VI contract payment of any amount in excess of the rent so registered in respect of any period subsequent to the date of the entry or, where a particular period is specified in the register, in respect of that period.

(2) Where any payment has been made or received in contravention of this section, the amount of the excess shall be recoverable by the person by whom it was paid.

(3) Any person who requires or receives any payment in contravention of this section shall be liable to a fine not exceeding £100 or to imprisonment for a term not exceeding six months or both, and, without prejudice to any other method of recovery, the court by which a person is found guilty of an offence under this subsection may order the amount paid in excess to be repaid to the person by whom the payment was made.

(4) Proceedings for an offence under this section shall not be instituted otherwise than by the local authority.

Security of tenure

77.—(1) If, after a Part VI contract has been referred to a rent tribunal by the lessee or the local authority under section 72 or section 75 above, a notice to quit the dwelling to which the contract relates is served by the lessor on the lessee at any time before the decision of the tribunal is given or within the period of six months thereafter, then, subject to subsection (2) and sections 79 and 80 below, the notice shall not take effect before the expiry of that period.

Notice to quit served after reference of contract to rent tribunal.

(2) In a case falling within subsection (1) above,—

- (a) the rent tribunal may, if they think fit, direct that a shorter period shall be substituted for the period of six months specified in that subsection; and
- (b) if the reference to the rent tribunal is withdrawn, the period during which the notice to quit is not to take effect shall end on the expiry of seven days from the withdrawal of the reference.

78.—(1) Subject to sections 79 and 80(3) below, where—

- (a) a notice to quit a dwelling the subject of a Part VI contract has been served, and
- (b) the Part VI contract has been referred to a rent tribunal under section 72 or section 75 above (whether before or after the service of the notice to quit) and the reference has not been withdrawn, and
- (c) the rent tribunal has not given a direction under section 77(2)(a) above, and
- (d) the period at the end of which the notice to quit takes effect (whether by virtue of the contract, of section 77 above or of this section) has not expired,

Application to tribunal for security of tenure where notice to quit is served.

the lessee may apply to the rent tribunal for the extension of the period referred to in paragraph (d) above.

(2) Where an application is made under this section, the notice to quit to which the application relates shall not have

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effect before the determination of the application unless the application is withdrawn.

(3) On an application under this section, the rent tribunal, after making such inquiry as they think fit and giving to each party an opportunity of being heard or, at his option, of submitting representations in writing, may direct that the notice to quit shall not have effect until the end of such period, not exceeding six months from the date on which the notice to quit would have effect apart from the direction, as may be specified in the direction.

(4) If the rent tribunal refuse to give a direction under this section,—

- (a) the notice to quit shall not have effect before the expiry of seven days from the determination of the application ; and
- (b) no subsequent application under this section shall be made in relation to the same notice to quit.

(5) On coming to a determination on an application under this section, the rent tribunal shall notify the parties of their determination.

Notices to quit served by owner-occupiers.

79. Where a person who has occupied a dwelling as a residence (in this section referred to as “ the owner-occupier ”) has, by virtue of a Part VI contract, granted the right to occupy the dwelling to another person and—

- (a) at or before the time when the right was granted (or, if it was granted before 8th December 1965, not later than 7th June 1966) the owner-occupier has given notice in writing to that other person that he is the owner-occupier within the meaning of this section, and
- (b) if the dwelling is part of a house, the owner-occupier does not occupy any other part of the house as his residence,

neither section 77 nor section 78 above shall apply where a notice to quit the dwelling is served if, at the time the notice is to take effect, the dwelling is required as a residence for the owner-occupier or any member of his family who resided with him when he last occupied the dwelling as a residence.

Reduction of period of notice on account of lessee's default.

80.—(1) The provisions of this section apply where a Part VI contract has been referred to a rent tribunal and the period at the end of which a notice to quit will take effect has been determined by section 77 above or extended under section 78 above.

(2) If, in a case where this section applies, it appears to the rent tribunal, on an application made by the lessor for a direction under this section,—

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- (a) that the lessee has not complied with the terms of the contract, or
- (b) that the lessee or any person residing or lodging with him has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers or has been convicted of using the dwelling, or allowing the dwelling to be used, for an immoral or illegal purpose, or
- (c) that the condition of the dwelling has deteriorated owing to any act or neglect of the lessee or any person residing or lodging with him,

the rent tribunal may direct that the period referred to in subsection (1) above shall be reduced so as to end at a date specified in the direction.

(3) No application may be made under section 78 above with respect to a notice to quit if a direction has been given under this section reducing the period at the end of which the notice is to take effect.

Miscellaneous and general

81. Where a Part VI contract is referred to a rent tribunal under this Part of this Act and—

Jurisdiction of rent tribunals.

- (a) the contract relates to a dwelling consisting of or comprising part only of a hereditament, and
- (b) no apportionment of the rateable value of the hereditament has been made under section 6 of this Act,

then, unless the lessor in the course of the proceedings requires that such an apportionment shall be made and, within two weeks of making the requirement, brings proceedings in the county court for the making of the apportionment, the rent tribunal shall have jurisdiction to deal with the reference if it appears to them that, had the apportionment been made, they would have had jurisdiction.

82.—(1) For the purposes of this Part of this Act, the local authority shall be—

Local authorities for Part VI.

- (a) in a county borough, London borough or county district, the council of the borough or district in question ; and
- (b) in the City of London, the Common Council.

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(2) The powers of the local authority under this Part of this Act may, if the local authority so resolve, be exercised by one of their officers appointed by them for the purpose.

(3) The local authority shall have power to publish information regarding the provisions of this Part of this Act.

Regulations.

83. The Minister of Housing and Local Government may by statutory instrument make regulations—

- (a) with regard to the tenure of office of chairmen and other members of rent tribunals ;
- (b) with regard to proceedings before rent tribunals under this Part of this Act ;
- (c) for prescribing anything which is required by this Part of this Act to be prescribed ; and
- (d) generally for carrying into effect the provisions of this Part of this Act.

Interpretation
of Part VI.

84.—(1) In this Part of this Act, unless the context otherwise requires,—

“dwelling” means a house or part of a house ;

“lessee” means the person to whom is granted, under a Part VI contract, the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantee ;

“lessor” means the person who, under a Part VI contract, grants to another the right to occupy the dwelling in question as a residence and any person directly or indirectly deriving title from the grantor ;

“register” means the register kept by the local authority in pursuance of section 74 above ;

“rent tribunal” has the meaning assigned to it by section 69(1) above ;

“services” includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a dwelling, other than a privilege or facility requisite for the purposes of access, cold water supply or sanitary accommodation.

(2) References in this Part of this Act to a party to a contract include references to any person directly or indirectly deriving title from such a party.

(3) Where separate sums are payable by the lessee of any dwelling to the lessor for any two or more of the following, namely,—

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- (a) occupation of the dwelling,
- (b) use of furniture, and
- (c) services,

any reference in this Part of this Act to “rent” in relation to that dwelling is a reference to the aggregate of those sums and, where those sums are payable under separate contracts, those contracts shall be deemed to be one contract.

PART VII

PREMIUMS, ETC.

85.—(1) Any person who, as a condition of the grant, renewal or continuance of a protected tenancy, requires, in addition to the rent, the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence under this section. Prohibition of premiums and loans on grant of protected tenancies.

(2) Any person who, in connection with the grant, renewal or continuance of a protected tenancy, receives any premium in addition to the rent shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(4) The court by which a person is convicted of an offence under this section relating to requiring or receiving any premium may order the amount of the premium to be repaid to the person by whom it was paid.

86.—(1) Subject to the following provisions of this section, any person who, as a condition of the assignment of a protected tenancy, requires the payment of any premium or the making of any loan (whether secured or unsecured) shall be guilty of an offence under this section. Prohibition of premiums and loans on assignment of protected tenancies.

(2) Subject to the following provisions of this section, any person who, in connection with the assignment of a protected tenancy, receives any premium shall be guilty of an offence under this section.

(3) Notwithstanding anything in subsections (1) and (2) above, an assignor of a protected tenancy of a dwelling-house

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PART VII may, if apart from this section he would be entitled to do so, require the payment by the assignee or receive from the assignee a payment—

- (a) of so much of any outgoings discharged by the assignor as is referable to any period after the assignment takes effect ;
- (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the assignor in carrying out any structural alteration of the dwelling-house or in providing or improving fixtures therein, being fixtures which, as against the landlord, he is not entitled to remove ;
- (c) where the assignor became a tenant of the dwelling-house by virtue of an assignment of the protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by that assignor, or by any previous assignor of the tenancy, in carrying out any such alteration or in providing or improving any such fixtures as are mentioned in paragraph (b) above ; or
- (d) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the assignee in connection with the assignment or accruing to him in consequence thereof.

(4) Without prejudice to subsection (3) above, the assignor shall not be guilty of an offence under this section by reason only that—

- (a) any payment of outgoings required or received by him on the assignment was a payment of outgoings referable to a period before the assignment took effect ; or
- (b) any expenditure which he incurred in carrying out structural alterations of the dwelling-house or in providing or improving fixtures therein and in respect of which he required or received the payment of any sum on the assignment was not reasonably incurred ; or
- (c) any amount paid by him as mentioned in subsection (3)(c) above was not a reasonable amount ; or
- (d) any amount which he required to be paid, or which he received, on the assignment in respect of goodwill was not a reasonable amount.

(5) Notwithstanding anything in subsections (1) and (2) above, the provisions of Schedule 11 to this Act shall have

effect in relation to the assignment of protected tenancies which are regulated tenancies in cases where a premium was lawfully required or received at the commencement of the tenancy.

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(6) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(7) The court by which a person is convicted of an offence under this section relating to requiring or receiving any premium may order the amount of the premium, or so much of it as cannot lawfully be required or received under this section (including any amount which, by virtue of subsection (4) above, does not give rise to an offence) to be repaid to the person by whom it was paid.

87.—(1) The provisions of this section apply in relation to any premises if

Prohibition of premiums on grant or assignment of furnished lettings.

(a) under Part VI of this Act, a rent is registered for those premises in the register kept in pursuance of section 74 of this Act; and

(b) in a case where the approval, reduction or increase of the rent by the rent tribunal is limited to rent payable in respect of a particular period, that period has not expired.

(2) Subject to subsection (3) below, any person who, as a condition of the grant, renewal, continuance or assignment of rights under a Part VI contract, requires the payment of any premium shall be guilty of an offence under this section.

(3) Nothing in subsection (2) above shall prevent a person from requiring—

(a) that there shall be paid so much of any outgoings discharged by a grantor or assignor as is referable to any period after the grant or assignment takes effect; or

(b) that there shall be paid a reasonable amount in respect of goodwill of a business, trade, or profession, where the goodwill is transferred to a grantee or assignee in connection with the grant or assignment or accrues to him in consequence thereof.

(4) A person guilty of an offence under this section shall be liable to a fine not exceeding £100.

(5) The court by which a person is convicted of an offence under this section may order the amount of the premium, or so much of it as cannot lawfully be required under this section, to be repaid to the person by whom it was paid.

PART VII

Excessive price for furniture to be treated as premium.

88. Where the purchase of any furniture has been required as a condition of the grant, renewal, continuance or assignment—

- (a) of a protected tenancy, or,
- (b) of rights under a Part VI contract which relates to premises falling within section 87(1) above,

then, if the price exceeds the reasonable price of the furniture, the excess shall be treated, for the purposes of this Part of this Act, as if it were a premium required to be paid as a condition of the grant, renewal, continuance or assignment of the protected tenancy or, as the case may be, the rights under the Part VI contract.

Punishment of attempts to obtain from prospective tenants excessive prices for furniture.

89.—(1) Any person who, in connection with the proposed grant, renewal, continuance or assignment, on terms which require the purchase of furniture, of a protected tenancy—

- (a) offers the furniture at a price which he knows or ought to know is unreasonably high, or otherwise seeks to obtain such a price for the furniture, or
- (b) fails to furnish, to any person seeking to obtain or retain accommodation whom he provides with particulars of the tenancy, a written inventory of the furniture, specifying the price sought for each item,

shall be liable to a fine not exceeding £100.

(2) Where a local authority have reasonable grounds for suspecting that an offence under subsection (1)(a) above has been committed with respect to a protected tenancy or proposed protected tenancy of a dwelling-house, they may give notice to the person entitled to possession of the dwelling-house or his agent that, on such date as may be specified in the notice, which shall not be earlier than twenty-four hours after the giving of the notice or, if the dwelling-house is unoccupied, than the expiry of such period after the giving of the notice as may be reasonable in the circumstances, facilities will be required for entry to the dwelling-house and inspection of the furniture therein.

(3) A notice under this section may be given by post.

(4) Where a notice is given under this section, any person authorised by the local authority may avail himself of any facilities for such entry and inspection as are referred to in subsection (2) above which are provided on the specified date but shall, if so required, produce some duly authenticated document showing that he is authorised by the local authority.

(5) If it is shown to the satisfaction of a justice of the peace, on sworn information in writing, that a person required to give facilities under this section has failed to give them, the justice

may, by warrant under his hand, empower the local authority, by any person authorised by them, to enter the dwelling-house in question, if need be by force, and inspect the furniture therein.

(6) A person empowered by or under the preceding provisions of this section to enter a dwelling-house may take with him such other persons as may be necessary and, if the dwelling-house is unoccupied, shall leave it as effectively secured against trespassers as he found it.

(7) Any person who wilfully obstructs a person acting in pursuance of a warrant issued under subsection (5) above shall be liable on a first conviction to a fine not exceeding £20 and, on a second or subsequent conviction, to a fine not exceeding £50.

(8) A local authority shall have power to publish information, for the assistance of persons offering or seeking tenancies, as to the operation of this section.

(9) In this section "local authority" means the council of a county borough, London borough, or county district or the Common Council of the City of London.

90.—(1) Where under any agreement (whether made before or after the commencement of this Act) any premium is paid after the commencement of this Act and the whole or any part of that premium could not lawfully be required or received under the preceding provisions of this Part of this Act, the amount of the premium or, as the case may be, so much of it as could not lawfully be required or received, shall be recoverable by the person by whom it was paid.

Recovery of premiums and loans unlawfully required or received.

(2) Nothing in section 85 or section 86 above shall invalidate any agreement for the making of a loan or any security issued in pursuance of such an agreement but, notwithstanding anything in the agreement for the loan, any sum lent in circumstances involving a contravention of either of those sections shall be repayable to the lender on demand.

91.—(1) Where a protected tenancy which is a regulated tenancy is granted, continued or renewed, any requirement that rent shall be payable—

Avoidance of requirements for advance payment of rent in certain cases.

- (a) before the beginning of the rental period in respect of which it is payable, or
- (b) earlier than six months before the end of the rental period in respect of which it is payable (if that period is more than six months),

shall be void, whether the requirement is imposed as a condition of the grant, renewal or continuance of the tenancy or under the terms thereof; and any requirement avoided by this section is, in the following provisions of this section, referred to as a "prohibited requirement".

PART VII

(2) Rent for any rental period to which a prohibited requirement relates shall be irrecoverable from the tenant.

(3) Any person who purports to impose any prohibited requirement shall be liable to a fine not exceeding £100, and the court by which he is convicted may order any amount of rent paid in compliance with the prohibited requirement to be repaid to the person by whom it was paid.

(4) Where a tenant has paid on account of rent any amount which, by virtue of this section is irrecoverable, then, subject to subsection (6) below, the tenant shall be entitled to recover that amount from the landlord who received it or his personal representatives.

(5) Subject to subsection (6) below, any amount which a tenant is entitled to recover under subsection (4) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.

(6) No amount which a tenant is entitled to recover under subsection (4) above shall be recoverable at any time after the expiry of two years from the date of payment.

(7) Any person who, in any rent book or similar document makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this section shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.

(8) If, where any such entry has been made by or on behalf of any landlord, the landlord, on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within seven days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

Interpretation
of Part VII.

92.—(1) In this Part of this Act, unless the context otherwise requires,—

“furniture” includes fittings and other articles ;

“Part VI contract” has the same meaning as in Part VI of this Act ;

“premium” includes any fine or other like sum and any other pecuniary consideration in addition to rent ;
and

“rental period” means a period in respect of which a payment of rent falls to be made.

(2) For the avoidance of doubt it is hereby declared that nothing in this Part of this Act shall render any amount recoverable more than once.

PART VIII

MORTGAGES

93.—(1) Subject to subsection (4) below, the mortgages with which this Part of this Act is concerned are mortgages which—
 (a) were created before 8th December 1965 ; and
 (b) are either controlled mortgages or regulated mortgages as hereinafter defined.

Mortgages to which Part VIII applies.

(2) For the purposes of this Part of this Act, a mortgage is a controlled mortgage at any time when, had this Act not been passed, it would have been a mortgage to which the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 would have applied (whether by virtue of the modifications of that Act effected by Schedule 1 to the Rent and Mortgage Restrictions Act 1939 or otherwise).

(3) Any reference in this Part of this Act to a regulated mortgage shall be construed in accordance with section 94 below.

(4) If on 28th November 1967 land consisting of or including a dwelling-house was subject to a long tenancy which became a regulated tenancy on that date by virtue of section 39 of the Leasehold Reform Act 1967, then sections 94 and 95 below shall have effect as if in relation to that land the reference in subsection (1)(a) above to 8th December 1965 were a reference to 28th November 1967.

94.—(1) Subject to subsection (2) below, a mortgage which falls within section 93(1)(a) above but which is not a controlled mortgage is a regulated mortgage if—

Regulated mortgages.

(a) it is a legal mortgage of land consisting of or including a dwelling-house which is let on or subject to a regulated tenancy ; and

(b) the regulated tenancy is binding on the mortgagee.

(2) Notwithstanding that a mortgage falls within subsection (1) above, it is not a regulated mortgage if—

(a) the rateable value on the appropriate day of the dwelling-house which falls within subsection (1)(a) above, or if there is more than one such dwelling-house comprised in the mortgage, the aggregate of the rateable values of those dwelling-houses on the appropriate day, is less than one-tenth of the rateable value on the appropriate day of the whole of the land comprised in the mortgage ;
 or

(b) the mortgagor is in breach of covenant, but for this purpose a breach of the covenant for the repayment of the principal money otherwise than by instalments shall be disregarded.

PART VIII

(3) In this section "legal mortgage" includes a charge by way of legal mortgage.

Powers of court to mitigate hardship to mortgagors under regulated mortgages.

95.—(1) The powers of the court under this section relate only to regulated mortgages, and those powers become exercisable in relation to such a mortgage only on an application made by the mortgagor within twenty-one days, or such longer time as the court may allow, after the occurrence of one of the following events, that is to say,—

- (a) the rate of interest payable in respect of the mortgage is increased ; or
- (b) a rent for a dwelling-house comprised in the mortgage is registered under Part IV of this Act and the rent so registered is lower than the rent which was payable immediately before the registration ; or
- (c) the mortgagee, not being a mortgagee who was in possession on 8th December 1965, demands payment of the principal money secured by the mortgage or takes any steps for exercising any right of foreclosure or sale or for otherwise enforcing his security.

(2) If the court is satisfied on any such application as is referred to in subsection (1) above that, by reason of the event in question and of the operation of this Act the mortgagor would suffer severe financial hardship unless relief were given under this section, the court may by order make such provision limiting the rate of interest, extending the time for the repayment of the principal money or otherwise varying the terms of the mortgage or imposing any limitation or condition on the exercise of any right or remedy in respect thereof, as the court thinks appropriate.

(3) Where the court makes an order under subsection (2) above in relation to a mortgage which comprises other land as well as a dwelling-house or dwelling-houses subject to a regulated tenancy the order may, if the mortgagee so requests, make provision for apportioning the money secured by the mortgage between that other land and the dwelling-house or dwelling-houses.

(4) Where such an apportionment is made as is referred to in subsection (3) above, the other provisions of the order made by the court shall not apply in relation to the other land referred to in that subsection and the money secured by the other land, and the mortgage shall have effect for all purposes as two separate mortgages of the apportioned parts.

(5) Where the court has made an order under this section it may vary or revoke it by a subsequent order.

(6) The court for the purposes of this section is a county court, except that where an application under subsection (1) above is made in pursuance of any step taken by the mortgagee

in the High Court or the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, it is that court. PART VIII

96.—(1) The provisions of Part I of Schedule 12 to this Act shall have effect with respect to the interest rate on controlled mortgages, and the provisions of Part II of that Schedule shall have effect, subject to subsection (2) below, with respect to the enforcement of the mortgagee's rights and remedies under a controlled mortgage. Restrictions applicable to controlled mortgages and mitigation thereof.

(2) Where the mortgagee under a controlled mortgage satisfies the county court that greater hardship would be caused if the restrictions imposed on the exercise of the mortgagee's rights and remedies by Part II of Schedule 12 to this Act continued to apply to the mortgage than if they were removed or modified, the court may by order allow him to exercise such of those rights and remedies as may be specified in the order, on such terms and conditions as may be so specified.

(3) Where the county court has made an order under this section it may vary or revoke it by a subsequent order.

97.—(1) Where a controlled mortgage comprises other land as well as a dwelling-house or dwelling-houses to which, immediately before the commencement of this Act, the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 applied, the mortgagee may apportion the principal money secured by the mortgage between that other land and the dwelling-house or dwelling-houses by giving one month's notice in writing to the mortgagor, stating the particulars of the apportionment. Apportionment of controlled mortgages. 1920 c. 17.

(2) At any time before the expiry of a month's notice given under subsection (1) above the mortgagor may dispute the amounts apportioned by the notice and, in default of agreement, the apportionment of the principal money secured by the mortgage shall be determined by a single arbitrator appointed by the President of the Royal Institution of Chartered Surveyors.

(3) Where a notice is given under subsection (1) above then, as from the expiry of the month's notice, the provisions of this Part of this Act shall cease to apply to the mortgage in question so far as it relates to the other land referred to in subsection (1) above and the money secured by the other land, and the mortgage shall have effect for all purposes as two separate mortgages of the apportioned parts.

98.—(1) Where a mortgagor under a controlled mortgage has paid on account of mortgage interest any amount which, by virtue of Schedule 12 to this Act, is irrecoverable by the mortgagee then, subject to subsection (3) below, the mortgagor who paid it shall be entitled to recover that amount from the mortgagee who received it or his personal representatives. Recovery of sums paid in excess of permitted rate of interest under controlled mortgage.

PART VIII

(2) Subject to subsection (3) below, any amount which a mortgagor is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the mortgagor from any mortgage interest payable by him to the mortgagee.

(3) No amount which a mortgagor is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of two years from the date of payment.

Interpretation
of Part VIII.

99. In this Part of this Act—

- (a) the expressions “ mortgagee ” and “ mortgagor ” include any person from time to time deriving title under the original mortgagee or mortgagor ; and
- (b) the expressions “ legal mortgage ”, in relation to regulated mortgages, and “ mortgage ”, in relation to controlled mortgages, include any charge registered under the Land Registration Act 1925.

1925 c. 21.

PART IX

MISCELLANEOUS AND GENERAL

Release from regulation

Release
from rent
regulation.

100.—(1) Where the Minister is satisfied with respect to every part of any area that the number of persons seeking to become tenants there—

- (a) of dwelling-houses exceeding a specified rateable value, or
- (b) of any class or description of dwelling-house or of dwelling-house exceeding a specified rateable value,

is not substantially greater than the number of such dwelling-houses in that part, he may by order provide that no such dwelling-house in the area shall be the subject of a regulated tenancy.

(2) An order under this section may contain such transitional provisions, including provisions to avoid or mitigate hardship, as appear to the Minister to be desirable.

(3) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.

Shared accommodation

Provisions
where tenant
shares
accommoda-
tion with
landlord.

101. Where under any contract—

- (a) a tenant has the exclusive occupation of any accommodation, and
- (b) the terms on which he holds the accommodation include the use of other accommodation in common

with his landlord or in common with his landlord and other persons, and

PART IX

- (c) by reason only of the circumstances mentioned in paragraph (b) above, the accommodation referred to in paragraph (a) above is not a dwelling-house let on a protected tenancy.

Part VI of this Act shall apply to the contract notwithstanding that the rent does not include payment for the use of furniture or for services.

102.—(1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”) and

Provisions where tenant shares accommodation with persons other than landlord.

- (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this section referred to as “the shared accommodation”) in common with another person or other persons, not being or including the landlord, and

- (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on or subject to a protected or statutory tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on a protected tenancy or, as the case may be, subject to a statutory tenancy and the following provisions of this section shall have effect.

(2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.

(3) Subject to subsection (4) below, while the tenant is in possession of the separate accommodation (whether as a protected or statutory tenant), any term or condition of the contract of tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.

(4) Where the terms and conditions of the contract of tenancy are such that at any time during the tenancy the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied, or their number could be

PART IX increased, nothing in subsection (3) above shall prevent those terms and conditions from having effect so far as they relate to any such variation or increase.

(5) Subject to subsection (6) below and without prejudice to the enforcement of any order made thereunder, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 10(1) of this Act shall apply accordingly.

(6) On the application of the landlord, the county court may make such order, either terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation, or modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation, or otherwise, as the court thinks just:

Provided that no order shall be made under this subsection so as to effect any termination or modification of the rights of the tenant which, apart from subsection (3) above, could not be effected by or under the terms of the contract of tenancy.

(7) In this section the expression "living accommodation" means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is (or, if the tenancy has ended, was) sufficient, apart from this section, to prevent the tenancy from constituting a protected tenancy of a dwelling-house.

Sublettings

Certain sublettings not to exclude any part of sub-
lessor's premises from protection under the Act.

103.—(1) Where the tenant of any premises, consisting of a house or part of a house, has sublet a part, but not the whole, of the premises, then, as against his landlord or any superior landlord, no part of the premises shall be treated as not being a dwelling-house let on or subject to a protected or statutory tenancy by reason only that—

- (a) the terms on which any person claiming under the tenant holds any part of the premises include the use of accommodation in common with other persons; or
- (b) part of the premises is let to any such person at a rent which includes payments in respect of board, attendance or use of furniture.

(2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

PART IX

104.—(1) If the tenant of a dwelling-house let on or subject to a protected or statutory tenancy sublets any part of the dwelling-house on a protected tenancy, then, subject to subsection (2) below, he shall within fourteen days after the subletting supply the landlord with a statement in writing of the subletting giving particulars of occupancy, including the rent charged.

Obligation to notify sublettings of dwelling-houses let on or subject to protected or statutory tenancies.

(2) Subsection (1) above shall not require the supply of a statement in relation to a subletting of any part of a dwelling-house if the particulars which would be required to be included in the statement as to the rent and other conditions of the subtenancy would be the same as in the last statement supplied in accordance with that subsection with respect to a previous subletting of that part.

(3) A tenant who is required to supply a statement in accordance with subsection (1) above and who, without reasonable excuse,—

(a) fails to supply a statement, or

(b) supplies a statement which is false in any material particular,

shall be liable to a fine not exceeding £10.

Jurisdiction and procedure

105.—(1) A county court shall have jurisdiction, either in the course of any proceedings relating to a dwelling or on an application made for the purpose by the landlord or the tenant, to determine any question—

County court jurisdiction.

(a) as to whether a tenancy is a protected tenancy or whether any person is a statutory tenant of a dwelling-house, or whether a mortgage is a controlled mortgage within the meaning of Part VIII of this Act; or

(b) as to the rent limit; or

(c) as to the rent actually recoverable under a controlled tenancy; or

(d) as to the application of Part VI of this Act to a contract;

or as to any matter which is or may become material for determining any such question.

(2) In subsection (1) above “dwelling” and “the rent limit” have, in relation to a controlled tenancy, the same meanings as in Part V of this Act.

(3) A county court shall have jurisdiction to deal with any claim or other proceedings arising out of any of the provisions

PART IX

of this Act specified in subsection (5) below, notwithstanding that by reason of the amount of the claim or otherwise the case would not, apart from this subsection, be within the jurisdiction of a county court.

(4) If, under any of the provisions of this Act specified in subsection (5) below, a person takes proceedings in the High Court which he could have taken in the county court, he shall not be entitled to recover any costs.

(5) The provisions referred to in subsections (3) and (4) above are—

- (a) Part II, except sections 10(2) and 17 ;
- (b) in Part III, section 33 ;
- (c) Part V ;
- (d) in Part VII, sections 90 and 91 ;
- (e) In Part VIII, sections 96(1), 97 and 98 ; and
- (f) in this Part of this Act, sections 110 and 111.

Rules as to procedure.

106.—(1) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to the provisions of this Act specified in subsection (3) below and may, by those rules or directions, provide for the conduct so far as desirable in private of any proceedings for the purposes of those provisions and for the remission of any fees.

(2) The power vested in the Lord Chancellor by subsection (1) above may, when the Great Seal is in commission, be exercised by any Lord Commissioner.

(3) The provisions of this Act to which subsection (1) above refers are—

- (a) Part II, except sections 10(2) and 17 ;
- (b) in Part III, subsections (4) to (6) of section 26 and section 33 ;
- (c) Part V ;
- (d) in Part VIII, sections 96(1), 97 and 98 ; and
- (e) in this Part of this Act, sections 110 and 111.

Miscellaneous

107.—(1) Any local authority to which this section applies shall have power—

- (a) to publish information, for the assistance of landlords and tenants, as to their rights and duties under Part III of the Rent Act 1965 and under the provisions of this Act specified in subsection (3) below and as to the procedure for enforcing those rights or securing the performance of those duties ; and
- (b) to furnish particulars as to the availability, extent and character of alternative accommodation.

Powers of local authorities for the purposes of giving information, 1965 c. 75.

(2) The functions of a local authority under this section may, in accordance with directions given by the authority, be exercised by a committee of the authority appointed under this section or under any other enactment; and the authority may appoint as additional members of any such committee, for the purpose of exercising those functions, such persons as they think fit, whether members of the authority or not.

(3) The provisions of this Act referred to in subsection (1) above are—

- (a) Parts I to V;
- (b) Part VII, except section 89;
- (c) Parts VIII and IX.

(4) This section applies to the following local authorities, that is to say,—

- (a) councils of county boroughs, London boroughs and county districts;
- (b) the Common Council of the City of London; and
- (c) the Council of the Isles of Scilly.

108.—(1) Offences under this Act are punishable summarily. Prosecution of offences.

(2) Proceedings for an offence under this Act or under Part III of the Rent Act 1965 may be instituted by any local authority to which section 107 above applies. 1965 c. 75.

109.—(1) Subject to subsection (5) below, any document required or authorised by this Act to be served by the tenant of a dwelling-house on the landlord thereof shall be deemed to be duly served on him if it is served— Service of notices on landlord's agents.

- (a) on any agent of the landlord named as such in the rent book or other similar document; or
- (b) on the person who receives the rent of the dwelling-house.

(2) Where a dwelling-house is subject to a regulated tenancy, subsection (1) above shall apply also in relation to any document required or authorised by this Act to be served on the landlord by a person other than the tenant.

(3) Subject to subsection (5) below, if for the purpose of any proceedings (whether civil or criminal) brought or intended to be brought under this Act, any person serves upon any such agent or other person as is referred to in paragraph (a) or paragraph (b) of subsection (1) above a notice in writing requiring the agent or other person to disclose to him the full name and place of abode or place of business of the landlord, that agent or other person shall forthwith comply with the notice.

PART IX

(4) If any such agent or other person as is referred to in subsection (3) above fails or refuses forthwith to comply with a notice served on him under that subsection, he shall be liable to a fine not exceeding £5, unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

(5) Subsections (1) to (4) above shall not apply to any document required or authorised to be served by, or to any proceedings brought or intended to be brought under, Part VI or Part VII of this Act, other than proceedings under section 91 of this Act.

Rents of
subsidised
private
houses.

110.—(1) The provisions of this section apply to any condition mentioned in any of the enactments specified in subsection (2) below which limits the rent to be charged in respect of any dwelling.

(2) The enactments referred to in subsection (1) above are—

1924 c. 35.

(a) section 2 of the Housing (Financial Provisions) Act 1924 ;

1926 c. 56.

(b) section 3 of the Housing (Rural Workers) Act 1926 ;

1938 c. 16.

(c) section 3 of the Housing (Financial Provisions) Act 1938 or section 46 of the Housing (Financial Provisions) Act 1958 ;

1958 c. 42.

1957 c. 56.

(d) section 104 of the Housing Act 1957 ;

(e) section 33 of the Housing (Financial Provisions) Act 1958, including that section as applied by section 7 of the House Purchase and Housing Act 1959.

1959 c. 33.

(3) Subject to subsection (4) below, in so far as any condition to which this section applies limits the rent under a controlled tenancy, the condition shall limit, or as the case may be shall have effect as if it limited, that rent to the amount of the rent limit, within the meaning of Part V of this Act.

(4) If any condition to which this section applies was imposed before 6th July 1957 and then limited the rent to an amount exceeding what would be the rent limit if ascertained under subsections (1) and (2) of section 52 of this Act, the rent limit under a controlled tenancy shall be that amount, subject to the provisions of subsection (3) of that section and of paragraph 7(2) of Schedule 9 to this Act.

(5) The provisions of Schedule 13 to this Act shall have effect, to the extent therein specified, in relation to any condition to which this section applies which limits the rent under a tenancy which is not a controlled tenancy.

111.—(1) Subject to subsection (2) below, no distress for the rent of any dwelling-house let on a protected tenancy or subject to a statutory tenancy shall be levied except with the leave of the county court; and the court shall, with respect to any application for such leave, have the same or similar powers with respect to adjournment, stay, suspension, postponement and otherwise as are conferred by section 11 of this Act, in relation to proceedings for possession of such a dwelling-house. PART IX
Restriction on
levy of distress
for rent.

(2) Nothing in subsection (1) above shall apply to distress levied under section 137 of the County Courts Act 1959. 1959 c. 22.

112. It shall be a condition of a protected tenancy of a dwelling-house that the tenant shall afford to the landlord access to the dwelling-house and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute. Implied
term in all
protected
tenancies.

General

113.—(1) In this Act, except where the context otherwise requires,— Interpretation.

“the appropriate day” has the meaning assigned to it by section 6(3) of this Act;

“controlled tenancy” and “regulated tenancy” shall be construed in accordance with section 7 of this Act;

“landlord” includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling-house, any person other than the tenant who is, or but for Part II of this Act would be, entitled to possession of the dwelling-house;

“let” includes “sub-let”;

“long tenancy” means a tenancy granted for a term of years certain exceeding 21 years, whether or not subsequently extended by act of the parties or by any enactment;

“the Minister”, subject to section 114 below, means the Minister of Housing and Local Government;

“protected tenant” and “protected tenancy” shall be construed in accordance with section 1 of this Act;

“rateable value” shall be construed in accordance with section 6 of this Act;

“statutory tenant” and “statutory tenancy” shall be construed in accordance with section 3 of this Act;

PART IX

“tenant” includes statutory tenant and also includes a sub-tenant and any person deriving title under the original tenant or sub-tenant ;

“tenancy” includes “sub-tenancy” ;

“tenancy at a low rent” has the meaning assigned to it by section 2(2) of this Act.

(2) Except in so far as the context otherwise requires, any reference in this Act to any other enactment shall be taken as referring to that enactment as amended by or under any other enactment, including this Act.

Application to Wales.

114.—(1) Subject to subsection (2) below, in its application to Wales and Monmouthshire, this Act shall have effect as if for references to the Minister (but not to the Minister of Housing and Local Government) there were substituted references to the Secretary of State.

(2) Subsection (1) above shall not apply in so far as this Act relates—

(a) to any order relating to an area partly outside Wales and Monmouthshire ; or

(b) to regulations under Part III or Part IV of this Act prescribing anything other than the form of any notice, application or other document or prescribing the form of any register.

Application to Isles of Scilly.

115.—(1) In the application of this Act to the Isles of Scilly, the provisions specified in subsection (2) below shall have effect subject to such exceptions, adaptations and modifications as the Minister may by order direct.

(2) The provisions of this Act referred to in subsection (1) above are:—

(a) in Part I, sections 6, 8 and 9(4) ;

(b) Part III ;

(c) Part IV ;

(d) in Part VIII, sections 94 and 95 and subsections (2) and (3) of section 96 ; and

(e) in this Part of this Act, section 100.

(3) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) An order under this section may be varied or revoked by a subsequent order.

(5) Section 57 of the Housing (Financial Provisions) Act 1958 (application to Scilly Isles) shall apply, as it applies in relation to the provisions specified in subsection (3) of that section, in relation to section 16 and subsections (2) to (5) of section 57 of this Act. PART IX
1958 c. 42.

116.—(1) Subject to sections 4 and 70(3)(a) of this Act, this Act shall apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as it applies in relation to premises in which no such interest subsists or ever subsisted. Application
to Crown
property.

(2) In this section “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

117.—(1) In relation to such protected and statutory tenancies in existence at the commencement of this Act as are specified in Schedule 14 thereto, the provisions of this Act specified in that Schedule shall have effect subject to the modifications so specified. Modifications,
amendments,
transitory
provisions,
repeals, etc.

(2) Subject to subsection (3) below, the enactments specified in Schedule 15 to this Act shall have effect subject to the amendments specified in that Schedule.

(3) The savings and transitory provisions in Schedule 16 to this Act shall have effect.

(4) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals). 1889 c. 63.

(5) Subject to subsection (3) above, the enactments specified in Schedule 17 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

118.—(1) This Act may be cited as the Rent Act 1968. Short title,
commence-
ment and
extent.

(2) This Act shall come into force on the expiry of the period of one month beginning with the date on which it is passed.

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

SCHEDULES

Section 3.

SCHEDULE 1

STATUTORY TENANTS BY SUCCESSION

1. The provisions of paragraph 2 or, as the case may be, paragraph 3 of this Schedule shall have effect, subject to section 3(2) of this Act, for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as "the original tenant") who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.

2. If the original tenant was a man who died leaving a widow who was residing with him at his death then, after his death, the widow shall be the statutory tenant if and so long as she occupies the dwelling-house as her residence.

3. Where paragraph 2 above does not apply, but a person who was a member of the original tenant's family was residing with him at the time of and for the period of six months immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the county court, shall be the statutory tenant if and so long as he occupies the dwelling-house as his residence.

4. A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2 or paragraph 3 above is in this Schedule referred to as "the first successor".

5. If, immediately before his death, the first successor was still a statutory tenant, the provisions of paragraph 6 or, as the case may be, paragraph 7 below shall have effect, subject to section 3(2) of this Act, for the purpose of determining who is the statutory tenant after the death of the first successor.

6. If the first successor was a man who died leaving a widow who was residing with him at his death then, after his death, the widow shall be the statutory tenant if and so long as she occupies the dwelling-house as her residence.

7. Where paragraph 6 above does not apply but a person who was a member of the first successor's family was residing with him at the time of and for the period of six months immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the county court, shall be the statutory tenant if and so long as he occupies the dwelling-house as his residence.

8.—(1) A person shall not become a statutory tenant by virtue of paragraph 6 or paragraph 7 above in any case where, immediately before the death of the first successor, his statutory tenancy was a controlled tenancy and, apart from section 9(3) of this Act, Part II of the Landlord and Tenant Act 1954 would have applied to that statutory tenancy, had it been a tenancy within the meaning of that Act.

(2) In a case falling within sub-paragraph (1) above, the person who, if paragraph 6 or, as the case may be, paragraph 7 above had applied, would have become the statutory tenant shall, instead, be treated for the purposes of the Landlord and Tenant Act 1954 as the tenant under a tenancy continuing by virtue of section 24 of that Act after the expiry of a term of years certain. SCH. 1
1954 c. 56.

9. Paragraphs 5 to 8 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 4 of the Requisitioned Houses and Housing (Amendment) Act 1955 or section 20 of the Rent Act 1965. 1955 c. 24.
1965 c. 75.

SCHEDULE 2

Section 7

CONTROLLED TENANCIES

PART I

PROVISIONS FOR DETERMINING WHETHER TENANCY IS A CONTROLLED TENANCY

1. Subject to the following provisions of this Schedule, a protected tenancy or a statutory tenancy of a dwelling-house is a controlled tenancy if—

- (a) the rateable value of the dwelling-house on 7th November 1956 did not exceed, if it was in the metropolitan police district or the City of London, £40 or, if it was elsewhere, £30, and
- (b) the dwelling-house is not one which consists, and consists only, of premises which, by virtue of the date of their construction or conversion, are excluded by paragraph 3 below from being the subject of a controlled tenancy, and
- (c) the tenancy is not, or, in the case of a statutory tenancy, the preceding contractual tenancy was not, a long tenancy, and
- (d) the tenancy or, in the case of a statutory tenancy, the preceding contractual tenancy, was created by a lease or agreement coming into operation before 6th July 1957 or is or was a tenancy to which paragraph 4 below applies.

2.—(1) Section 6 of this Act shall not apply in ascertaining the rateable value referred to in paragraph 1(a) above, but, subject to the following provisions of this paragraph, the reference in that paragraph to the rateable value of a dwelling-house on 7th November 1956 shall be construed,—

- (a) if the dwelling-house was a hereditament for which a rateable value was on that date shown in the valuation list, as a reference to the rateable value of the hereditament, or where that value differed from the net annual value, the net annual value thereof, as shown in the valuation list on that date ;
- (b) if the dwelling-house formed part only of such a hereditament, as a reference to such proportion of the said rateable

SCH. 2

value or net annual value as may be or have been agreed in writing between the landlord and tenant or determined by the county court ;

- (c) if the dwelling-house consisted of or formed part of more than one such hereditament, as a reference to the aggregate of the rateable values (ascertained in accordance with paragraphs (a) and (b) above) of those hereditaments or parts.

(2) Any apportionment of rateable value made by the county court in a case falling within sub-paragraph (1)(b) above shall be final and conclusive.

(3) Subject to sub-paragraph (4) below, where, after 7th November 1956, the valuation list was altered so as to vary the rateable value of a hereditament, and the alteration had effect from a date not later than 7th November 1956 and was made in pursuance of a proposal made before 1st April 1957, the rateable value on 7th November 1956 of any dwelling-house consisting of or wholly or partly comprised in that hereditament shall be ascertained as if the amount of the rateable, or as the case may be the net annual, value of that hereditament shown in the valuation list on 7th November 1956 had been the amount of that value shown in the list as altered.

(4) Where such a proposal as is referred to in sub-paragraph (3) above was pending on 6th July 1957 and—

- (a) the proposal was for an alteration in the valuation list reducing the rateable value of the dwelling-house, but,
 (b) that rateable value on 31st March 1956 was such that, if it had remained unaltered, the rateable value of the dwelling-house on 7th November 1956 would have exceeded the relevant limit specified in paragraph 1(a) above,

then any alteration in the rateable value of the dwelling-house which was made in pursuance of the proposal shall be disregarded in determining whether that rateable value on 7th November 1956 did or did not exceed the relevant limit in paragraph 1(a) above.

(5) Where the tenant or any previous tenant under a tenancy or a statutory tenancy which began before 6th July 1957 made or contributed to the cost of an improvement on the premises comprised in the protected or statutory tenancy and the improvement was made before 7th November 1956 by the execution of works amounting to structural alteration, extension or addition, the rateable value of the premises as ascertained in accordance with sub-paragraphs (1) to (4) above shall be taken to be reduced by such amount, if any, as may have been agreed or determined in accordance with Part III of Schedule 5 to the Rent Act 1957 (which, in certain cases, provided for a reduction of rateable value on account of certain improvements if the tenant served the necessary notice on the landlord not later than six weeks after the commencement of that Act).

1957 c. 25.

SCH. 2

(6) If at the time of the making of such an agreement relating to the rateable value of a dwelling-house as is mentioned in sub-paragraph (1)(b) above, the landlord was himself a tenant, then, unless he was a tenant under a tenancy having a term with more than seven years to run at that time, the agreement shall not have effect for the purposes of this Act except with the concurrence in writing of his immediate landlord.

3.—(1) Premises which—

- (a) were erected after 29th August 1954, or
- (b) are separate and self-contained premises produced by conversion, after that date, of other premises, with or without the addition of premises erected after that date,

are excluded from being the subject of a controlled tenancy unless they consist of a dwelling-house provided by works in respect of which a grant became payable under section 20 of the Housing Act 1949 or section 30 of the Housing (Financial Provisions) Act 1958 (improvement grants).

(2) For the purposes of this paragraph, premises shall be treated as converted or erected after 29th August 1954 if the conversion or erection was completed after that date, notwithstanding that it may have been begun on or before that date.

4.—(1) This paragraph applies to a protected tenancy created by a lease or agreement coming into operation after the commencement of this Act if—

- (a) it is granted to a person who, immediately before it was granted, was the tenant of any premises under a controlled tenancy, and
- (b) the circumstances are such that the premises comprised in the controlled tenancy referred to in paragraph (a) above and the premises comprised in the protected tenancy granted to the person in question are the same, or that one of those premises consists of or includes part of the other premises.

(2) Where a controlled tenancy of a dwelling-house comes to an end on the landlord recovering possession of the dwelling-house by virtue of section 17 of this Act this paragraph applies to a protected tenancy created by a lease or agreement coming into operation on or after the commencement of this Act which is—

- (a) a tenancy of the whole or any part of the premises comprised in the previous controlled tenancy, and
- (b) the first such tenancy created after the recovery of possession.

(3) This paragraph also applies to a protected tenancy created by a lease or agreement coming into operation on or after 6th July 1957 but before the commencement of this Act which was a tenancy to which subsection (2) of section 11 of the Rent Act 1957 (which provided that new tenancies should not be controlled) did not apply either—

- (a) by virtue of the proviso to subsection (2) of that section (which made provision corresponding to sub-paragraph (1) above), or

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(b) by virtue of subsection (6) of that section (which made provision corresponding to sub-paragraph (2) above).

5.—(1) If, on the death of a statutory tenant of a dwelling-house whose statutory tenancy was a controlled tenancy, a person becomes statutory tenant of that dwelling-house by virtue of paragraph 6 or paragraph 7 of Schedule 1 to this Act, that person's statutory tenancy shall be a regulated tenancy and not a controlled tenancy.

1965 c. 75.

(2) Sub-paragraph (1) above applies also to the statutory tenancy of a person who, before the commencement of this Act, became a statutory tenant by virtue of section 13 of the Rent Act 1965 (which made provision corresponding to paragraphs 6 and 7 of Schedule 1 to this Act).

PART II

1939 RATEABLE VALUE

6. The provisions of this Part of this Schedule shall have effect in determining the 1939 rateable value of a dwelling-house for the purposes of section 7(3) of this Act.

7.—(1) If, on 6th April 1939, a rateable value was shown in the valuation list then in force with respect to a dwelling-house within the area which constituted the administrative county of London, the 1939 rateable value of that dwelling-house means that rateable value or, if the net annual value of the dwelling-house as shown in that list differed from the rateable value, that net annual value.

(2) If, on 1st April 1939, a rateable value was shown in the valuation list then in force with respect to a dwelling-house outside the area which constituted the administrative county of London, the 1939 rateable value of that dwelling-house means that rateable value or, if the net annual value of the dwelling-house as shown in that list differed from the rateable value, that net annual value.

8. In relation to a dwelling-house which was first assessed after 1st April 1939 or, if it is within the area which constituted the administrative county of London, after 6th April 1939, the 1939 rateable value means the rateable value shown in the valuation list with respect to the dwelling-house on the day on which the dwelling-house was first assessed or, if the net annual value as shown in the valuation list in force on that day differed from the rateable value, that net annual value.

9. Where, for the purpose of determining the 1939 rateable value of any dwelling-house, it is necessary to apportion the 1939 rateable value of the property in which that dwelling-house is comprised, the county court may, on application by either party, make such apportionment as seems just, and the decision of a county court (whether given before or after the commencement of this Act) as to the amount to be apportioned to the dwelling-house shall be final and conclusive.

SCHEDULE 3

Section 10.

GROUNDS FOR POSSESSION OF DWELLING-HOUSES LET ON OR
SUBJECT TO PROTECTED OR STATUTORY TENANCIES

PART I

CASES IN WHICH COURT MAY ORDER POSSESSION

Case 1

Where any rent lawfully due from the tenant has not been paid, or any obligation of the protected or statutory tenancy which arises under this Act, or—

- (a) in the case of a protected tenancy, any other obligation of the tenancy, in so far as it is consistent with the provisions of Part II of this Act, or
- (b) in the case of a statutory tenancy, any other obligation of the previous protected tenancy which is applicable to the statutory tenancy,

has been broken or not performed.

Case 2

Where the tenant or any person residing or lodging with him or any sub-tenant of his has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the dwelling-house or allowing the dwelling-house to be used for immoral or illegal purposes.

Case 3

Where the condition of the dwelling-house has, in the opinion of the court, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing or lodging with him or any sub-tenant of his and, in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, where the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant, as the case may be.

Case 4

Where the tenant has given notice to quit and, in consequence of that notice, the landlord has contracted to sell or let the dwelling-house or has taken any other steps as the result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession.

Case 5

Where, without the consent of the landlord, the tenant has, at any time after 8th December 1965 or, in the case of a controlled tenancy, after 1st September 1939, assigned or sub-let the whole of the dwelling-house or sub-let part of the dwelling-house, the remainder being already sub-let.

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Case 6

Where the protected or statutory tenancy is a controlled tenancy and the dwelling-house consists of or includes premises licensed for the sale of intoxicating liquor for consumption off the premises only, and—

- (a) the tenant has committed an offence as holder of the licence, or
- (b) the tenant has not conducted the business to the satisfaction of the licensing justices or the police authority, or
- (c) the tenant has carried on the business in a manner detrimental to the public interest, or
- (d) the renewal of the licence has for any reason been refused.

Case 7

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for some person engaged in his whole-time employment, or in the whole-time employment of some tenant from him or with whom, conditional on housing being provided, a contract for such employment has been entered into, and the tenant was in the employment of the landlord or a former landlord, and the dwelling-house was let to him in consequence of that employment and he has ceased to be in that employment.

Case 8

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for—

- (a) himself, or
- (b) any son or daughter of his over eighteen years of age, or
- (c) his father or mother, or
- (d) if the dwelling-house is let on or subject to a regulated tenancy, the father or mother of his wife or husband,

and the landlord did not become landlord by purchasing the dwelling-house or any interest therein after 23rd March 1965 or, if the dwelling-house is let on or subject to a controlled tenancy, after 7th November 1956.

Case 9

Where the court is satisfied that the rent charged by the tenant for any sub-let part of the dwelling-house which is also a dwelling-house let on a protected tenancy or subject to a statutory tenancy is or was in excess of the maximum rent for the time being recoverable for that part, having regard to the provisions of Part III or as the case may be, Part V of this Act.

PART II

SCH. 3

CASES IN WHICH COURT MUST ORDER POSSESSION WHERE
DWELLING-HOUSE SUBJECT TO REGULATED TENANCY*Case 10*

Where a person who occupied the dwelling-house as his residence (in this Case referred to as "the owner-occupier") let it on a regulated tenancy and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case, and
- (b) the dwelling-house has not, since 8th December 1965, been let by the owner-occupier on a protected tenancy with respect to which the condition mentioned in paragraph (a) above was not satisfied, and
- (c) the court is satisfied that the dwelling-house is required as a residence for the owner-occupier or any member of his family who resided with the owner-occupier when he last occupied the dwelling-house as a residence.

Case 11

Where the dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and—

- (a) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (b) the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.

Case 12

Where the dwelling-house was at any time occupied by a person under the terms of his employment as a person employed in agriculture, and

- (a) the tenant neither is nor at any time was so employed by the landlord and is not the widow of a person who was so employed, and
- (b) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed or to be employed by the landlord in agriculture ;

and for the purposes of this Case "employed", "employment" and "agriculture" have the same meanings as in the Agricultural Wages 1948 c. 47. Act 1948.

SCH. 3

Case 13

1967 c. 22.

Where proposals for amalgamation, approved for the purposes of a scheme under section 26 of the Agriculture Act 1967, have been carried out and, at the time when the proposals were submitted, the dwelling-house was occupied by a person responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of the land comprised in the amalgamation, and

- (a) after the carrying out of the proposals, the dwelling-house was let on a regulated tenancy otherwise than to, or to the widow of, either a person ceasing to be so responsible as part of the amalgamation or a person who is, or at any time was, employed by the landlord in agriculture, and
- (b) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed or to be employed by the landlord in agriculture, and
- (d) the proceedings for possession are commenced by the landlord at any time during the period of five years beginning with the date on which the proposals for the amalgamation were approved or, if occupation of the dwelling-house after the amalgamation continued in, or was first taken by, a person ceasing to be responsible as mentioned in paragraph (a) above or his widow, during a period expiring three years after the date on which the dwelling-house next became unoccupied ;

1948 c. 47.

and for the purposes of this Case "employed" and "agriculture" have the same meanings as in the Agricultural Wages Act 1948 and "amalgamation" has the same meaning as in Part II of the Agriculture Act 1967.

PART III

PROVISIONS APPLICABLE TO CASE 8 AND PART II ABOVE

Case 8

1. A court shall not make an order for possession of a dwelling-house by reason only that the circumstances of the case fall within Case 8 in Part I of this Schedule if the court is satisfied that, having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the order than by refusing to grant it.

Part II

2. Any reference in Part II of this Schedule to the relevant date shall be construed as follows:—

- (a) if the protected tenancy, or, in the case of a statutory tenancy, the previous contractual tenancy, was created before 8th December 1965, the relevant date means 7th June 1966 ; and

(b) in any other case, the relevant date means the date of the commencement of the regulated tenancy in question.

SCH. 3

PART IV

SUITABLE ALTERNATIVE ACCOMMODATION

1. For the purposes of section 10(1)(a) of this Act, a certificate of the housing authority for the district in which the dwelling-house in question is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.

2. Where no such certificate as is mentioned in paragraph 1 above is produced to the court, accommodation shall be deemed to be suitable for the purposes of section 10(1)(a) of this Act if it consists of either—

- (a) premises which are to be let as a separate dwelling such that they will then be let on a protected tenancy, or
- (b) premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by Part II of this Act in the case of a protected tenancy,

and, in the opinion of the court, the accommodation fulfils the relevant conditions as defined in paragraph 3 below.

3.—(1) For the purposes of paragraph 2 above, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his family as regards proximity to place of work, and either—

- (a) similar as regards rental and extent to the accommodation afforded by dwelling-houses provided in the neighbourhood by any housing authority for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and his family ; or
- (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character.

(2) For the purposes of sub-paragraph (1)(a) above, a certificate of a housing authority stating—

- (a) the extent of the accommodation afforded by dwelling-houses provided by the authority to meet the needs of tenants with families of such number as may be specified in the certificate, and
- (b) the amount of the rent charged by the authority for dwelling-houses affording accommodation of that extent,

shall be conclusive evidence of the facts so stated.

4. Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of the Housing Act 1957.

1957 c. 56.

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5. Any document purporting to be a certificate of a housing authority named therein issued for the purposes of this Schedule and to be signed by the clerk to that authority shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.

1957 c. 56.

6. In this Schedule "housing authority" means a council which is a local authority for the purposes of Part V of the Housing Act 1957, and "district", in relation to such an authority, means the district for supplying the needs of which the authority has power under that Part of that Act.

Sections 23, 47,
52, 54.

SCHEDULE 4

CALCULATION OF AMOUNT OF RATES

1. For the purposes of this Act, the amount of rates for any rental period shall be taken, subject to the following provisions of this Schedule, to be an amount which bears to the total rates payable during the relevant rating period the same proportion as the length of the rental period bears to the length of the relevant rating period.

2. In this Schedule "the relevant rating period", in relation to a rental period, means the rating period during which the rent for that rental period is payable.

3. The amount of the rates for any rental period which precedes the making, by the authority levying the rates, of their first demand for, or for an instalment of, the rates for the relevant rating period shall be calculated on the basis that the rates for that rating period will be the same as for the last preceding rating period.

4.—(1) On the making, by the authority levying the rates, of their first such demand, and on the making by them of any subsequent such demand, the amount of the rates for any rental period shall if necessary be recalculated on the basis that the rates for the relevant rating period will be such as appears from the information given in the demand and any previous demands.

(2) Any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than six weeks before the date of the service of the demand giving rise to the recalculation.

5. If, as a result of the settlement of a proposal, the rates payable for the relevant rating period are decreased, the amount of the rates for a rental period shall be recalculated so as to give effect to the decrease; but any such recalculation shall not affect the ascertainment of the rates for any rental period beginning more than six weeks before the date of the settlement of the proposal.

6. In computing the rates for any rental period for the purposes of this Schedule, any discount, and any allowance made under any of the enactments relating to allowances given where rates are paid by the owner instead of by the occupier, shall be left out of account, and accordingly those rates shall be computed as if no such discount or allowance had fallen to be, or had been, allowed or made.

SCHEDULE 5

Section 42.

RENT ASSESSMENT COMMITTEES

1. The Minister shall draw up and from time to time revise panels of persons to act as chairmen and other members of rent assessment committees for such areas, comprising together every registration area, as the Minister may from time to time determine.

2. Each panel shall consist of a number of persons appointed by the Lord Chancellor and a number of persons appointed by the Minister and, if the Minister thinks fit, a number of persons appointed by him to act only in cases of absence or incapacity of other members of the panel.

3. The Minister shall nominate one of the persons appointed by the Lord Chancellor to act as president of the panel, and one or more such persons to act as vice-president or vice-presidents.

4. Subject to the following provisions of this Schedule, the number of rent assessment committees to act for any area and the constitution of those committees shall be determined by the president of the panel formed for that area or, in the case of the president's absence or incapacity, by the vice-president or, as the case may be, one of the vice-presidents.

5. Subject to paragraph 6 below, each rent assessment committee shall consist of a chairman and one or two other members, and the chairman shall be either the president or vice-president (or, as the case may be one of the vice-presidents) of the panel or one of the other members appointed by the Lord Chancellor.

6. The president of the panel may, if he thinks fit, direct that when dealing with such cases or dealing with a case in such circumstances as may be specified in the direction, the chairman sitting alone may, with the consent of the parties, exercise the functions of a rent assessment committee.

7. There shall be paid to members of panels such remuneration and allowances as the Minister, with the consent of the Treasury, may determine.

8. The president of the panel may appoint, with the approval of the Minister as to numbers, such clerks and other officers and servants of rent assessment committees as he thinks fit, and there shall be paid to the clerks and other officers and servants such salaries and allowances as the Minister, with the consent of the Treasury, may determine.

9. There shall be paid out of moneys provided by Parliament—
- (a) the remuneration and allowances of members of panels;
 - (b) the salaries and allowances of clerks and other officers and servants appointed under this Schedule; and
 - (c) such other expenses of a panel as the Treasury may determine.

Sections 44, 45.

SCHEDULE 6

APPLICATIONS FOR REGISTRATION OF RENTS

PART I

APPLICATIONS UNSUPPORTED BY CERTIFICATE OF FAIR RENT

Procedure on applications to rent officer

1. On receiving any application for the registration of a rent, the rent officer may, by notice in writing served on the landlord or the tenant (whether or not the applicant or one of the applicants) require him to give to the rent officer, within such period of not less than seven days from the service of the notice as may be specified in the notice, such information as he may reasonably require regarding such of the particulars contained in the application as may be specified in the notice.

2. Where the application is made by the landlord alone the rent officer shall serve on the tenant, and where it is made by the tenant alone he shall serve on the landlord, a notice informing him of the application and specifying a period of not less than seven days from the service of the notice during which representations in writing may be made to the rent officer against the registration of the rent specified in the application.

3.—(1) Where—

- (a) the application is made jointly by the landlord and the tenant, or
- (b) no representations are made as mentioned in paragraph 2 above,

and it appears to the rent officer, after making such inquiry, if any, as he thinks fit and considering any information supplied to him in pursuance of paragraph 1 above, that the rent specified in the application is a fair rent, he may register that rent without further proceedings.

(2) Where the rent officer registers a rent under this paragraph he shall notify the landlord and tenant accordingly.

4.—(1) Where representations are made as mentioned in paragraph 2 above or the rent officer is not satisfied that the rent specified in the application is a fair rent or, as the case may be, that the rent for the time being registered is no longer a fair rent, he shall serve a notice under this paragraph.

(2) A notice under this paragraph shall be served on the landlord and on the tenant informing them that the rent officer proposes, at a time (which shall not be earlier than seven days after the service of the notice) and place specified in the notice to consider in consultation with the landlord and the tenant, or such of them as may appear at that time and place, what rent ought to be registered for the dwelling-house or, as the case may be, whether a different rent ought to be so registered.

(3) At any such consultation the landlord and the tenant may each be represented by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

5. After considering, in accordance with paragraph 4 above, what rent ought to be registered or, as the case may be, whether a different rent ought to be registered, the rent officer shall, as the case may require,—

- (a) determine a fair rent and register it as the rent for the dwelling-house ; or
- (b) confirm the rent for the time being registered and note the confirmation in the register ;

and shall notify the landlord and the tenant accordingly by a notice stating that if, within twenty-eight days of the service of the notice or such longer period as he or a rent assessment committee may allow, an objection in writing is received by the rent officer from the landlord or the tenant the matter will be referred to a rent assessment committee.

6.—(1) If such an objection as is mentioned in paragraph 5 above is received, then—

- (a) if it is received within the period of twenty-eight days specified in that paragraph or a rent assessment committee so direct, the rent officer shall refer the matter to a rent assessment committee ;
- (b) if it is received after the expiry of that period the rent officer may either refer the matter to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

(2) The rent officer shall indicate in the register whether the matter has been referred to a rent assessment committee in pursuance of this paragraph.

Determination of fair rent by rent assessment committee

7.—(1) The rent assessment committee to whom a matter is referred under paragraph 6 above—

- (a) may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than fourteen days from the service of the notice as may be specified in the notice, such further information, in addition to any given to the rent officer in pursuance of paragraph 1 above, as they may reasonably require ; and
- (b) shall serve on the landlord and on the tenant a notice specifying a period of not less than fourteen days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee.

(2) If any person fails without reasonable cause to comply with any notice served on him under sub-paragraph (1)(a) above, he shall be liable on a first conviction to a fine not exceeding £50 and, on a second or subsequent conviction, to a fine not exceeding £100.

(3) Where an offence under sub-paragraph (2) above committed by a body corporate is proved to have been committed with the

Sec. 6 consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

8. Where, within the period specified in paragraph 7(1)(b) above, or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

9.—(1) The committee shall make such inquiry, if any, as they think fit and consider any information supplied or representation made to them in pursuance of paragraph 7 or paragraph 8 above and—

- (a) if it appears to them that the rent registered or confirmed by the rent officer is a fair rent, they shall confirm that rent;
- (b) if it does not appear to them that that rent is a fair rent, they shall determine a fair rent for the dwelling-house.

(2) Where the committee confirm or determine a rent under this paragraph they shall notify the landlord, the tenant and the rent officer accordingly.

(3) On receiving the notification, the rent officer shall, as the case may require, either indicate in the register that the rent has been confirmed or register the rent determined by the committee as the rent for the dwelling-house.

PART II

APPLICATIONS SUPPORTED BY CERTIFICATE OF FAIR RENT

Procedure on applications to rent officer

10.—(1) On receiving an application for the registration of a rent which is made as mentioned in section 45(4) of this Act, the rent officer shall ascertain whether the works specified in the certificate have been carried out in accordance with the plans and specifications which accompanied the application for the certificate or, as the case may be, whether the condition of the dwelling-house is the same as at the date of the certificate.

(2) If the rent officer is satisfied that the works have been so carried out or, as the case may be, that the dwelling-house is in the same condition as at the date of the certificate, he shall register the rent in accordance with the certificate.

(3) If the rent officer is not satisfied as mentioned in sub-paragraph (2) above, he shall serve on the applicant a notice stating the matters with respect to which he is not so satisfied and informing him that if, within fourteen days from the service of the notice or such longer period as the rent officer or a rent assessment committee may allow,

the applicant makes a request in writing to that effect, the rent officer will refer the matter to a rent assessment committee.

Sec. 6

11. If such a request as is mentioned in paragraph 10(3) above is made, then—

- (a) if it is made within the period of fourteen days specified in that paragraph or a rent assessment committee so direct, the rent officer shall refer the matter to a rent assessment committee ;
- (b) if it is made after the expiry of that period, the rent officer may either refer the matter to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

Procedure on references to rent assessment committee

12.—(1) The rent assessment committee to whom a matter is referred under paragraph 11 above shall give the applicant an opportunity to make representations in writing or to be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

(2) After considering any representations made under subparagraph (1) above, the rent assessment committee shall notify the rent officer and the applicant whether they are satisfied as mentioned in paragraph 10(2) above and—

- (a) if they are so satisfied they shall direct the rent officer to register the rent in accordance with the certificate ;
- (b) if they are not so satisfied they shall direct the rent officer to refuse the application for registration.

Provisional registration

13. Where a rent is registered in pursuance of such an application as is mentioned in paragraph 10(1) above by a person who intends to grant a regulated tenancy, the registration shall be provisional only until the regulated tenancy is granted and shall be of no effect unless the rent officer is notified in the prescribed manner, within one month from the date of the registration or such longer time as the rent officer may allow, that the regulated tenancy has been granted.

14. Where a registration is made as mentioned in paragraph 13 above, the rent officer shall indicate in the register that it is so made and —

- (a) if he is notified as mentioned in that paragraph that the regulated tenancy has been granted he shall indicate that fact in the register ;
- (b) if he is not so notified he shall delete the registration.

S* 2

Section 45(3).

SCHEDULE 7

CERTIFICATES OF FAIR RENT

1. An application for a certificate of fair rent —

- (a) must be in the prescribed form ;
- (b) must state the rent to be specified in the certificate ; and
- (c) in the case mentioned in paragraph (a) of section 45(1) of this Act, must be accompanied by plans and specifications of the works to be carried out and, if the works to be carried out are works of improvement, must state whether the dwelling-house is for the time being subject to a regulated tenancy.

2.—(1) If it appears to the rent officer that the information supplied to him is insufficient to enable him to issue a certificate of fair rent he shall serve on the applicant a notice stating that he will not entertain the application and that, if a request in writing to that effect is made by the applicant within fourteen days from the service of the notice or such longer period as a rent officer or a rent assessment committee may allow, the rent officer will refer the application to a rent assessment committee.

(2) If such a request is made, then —

- (a) if it is made within the fourteen days referred to in subparagraph (1) above or a rent assessment committee so direct, the rent officer shall refer the application to a rent assessment committee ;
- (b) if it is made after the expiry of those fourteen days, the rent officer may either refer the application to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

3. If it appears to the rent officer that the information supplied to him is sufficient and that the rent stated in the application would be a fair rent he may, unless the dwelling-house is subject to a regulated tenancy, issue a certificate specifying that rent and the other terms referred to in section 45(2) of this Act.

4.—(1) If it appears to the rent officer that the information is sufficient but either —

- (a) he is not satisfied that the rent stated in the application would be a fair rent, or
- (b) the dwelling-house is subject to a regulated tenancy,

he shall serve on the applicant a notice stating that he proposes, at a time (which shall not be earlier than seven days after the service of the notice) and place specified in the notice, to consider in consultation with the applicant, if present at that time and place, what rent ought to be specified in the certificate.

(2) At any such consultation the applicant may be represented by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

5. After considering in accordance with paragraph 4 above what rent ought to be specified in the certificate, the rent officer shall determine a fair rent and shall serve on the applicant a notice stating that he proposes to issue a certificate specifying that rent, unless within fourteen days from the service of the notice, or such longer period as the rent officer or a rent assessment committee may allow, the applicant requests in writing that the application should be referred to a rent assessment committee.

6.—(1) If such a request as is referred to in paragraph 5 above is made, then —

- (a) if it is made within the period of fourteen days referred to in that paragraph or a rent assessment committee so direct, the rent officer shall refer the application to a rent assessment committee ;
- (b) if it is made after the expiry of those fourteen days, the rent officer may either refer the application to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

(2) If no such request is made or if such a request is made but the application is not referred to a rent assessment committee, the rent officer shall issue the certificate.

7.—(1) Where an application is referred to a rent assessment committee, then if the reference is under paragraph 2 above and it appears to the committee that the information supplied by the applicant to the rent officer is insufficient to enable a certificate of fair rent to be issued they shall notify the applicant accordingly.

(2) In any other case where an application is referred to a rent assessment committee, they shall serve on the applicant a notice specifying a period of not less than fourteen days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee.

(3) Where, within the period specified under sub-paragraph (2) above or such further period as the committee may allow, the applicant requests to make oral representations, the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

8.—(1) After considering any representation made to them in pursuance of paragraph 7 above, the committee shall determine a fair rent for the dwelling-house and shall notify the applicant and the rent officer accordingly.

(2) On receiving the notification the rent officer shall issue to the applicant a certificate of fair rent specifying the rent determined by the committee.

9. Where an application under this Schedule is made with respect to a dwelling-house which it is intended to improve and the dwelling-house is subject to a regulated tenancy—

- (a) a notice under paragraph 4, paragraph 5, paragraph 7(2) or paragraph 8 above shall be served on the tenant as well

SCH. 7

as on the applicant and any notice served under paragraph 4, paragraph 5 or paragraph 7(2) above shall refer to consultation with, or, as the case may be, a request or representations by, the tenant as well as the applicant ;

- (b) the tenant may make representations, request reference to a rent assessment committee and be present or represented in like manner as the applicant, and references in this Schedule to the applicant shall be construed accordingly ; and
- (c) a copy of any certificate of fair rent issued in pursuance of the application shall be sent to the tenant.

Section 52.

SCHEDULE 8

1956 GROSS VALUE

1.—(1) Subject to the following provisions of this Schedule, the 1956 gross value of any dwelling, for the purposes of Part V of this Act, is the gross value thereof as shown in the valuation list on 7th November 1956 or, where the dwelling forms part only of a hereditament shown in that list, such proportion of the gross value shown in that list for that hereditament as may be or have been agreed in writing between the landlord and the tenant or be determined by the county court.

(2) Any apportionment of gross value determined by the county court for the purposes of Part V of this Act shall be final and conclusive.

2. Where a dwelling is or forms part of a hereditament for which no gross value was shown in the valuation list on 7th November 1956, paragraph 1 above shall have effect in relation to the dwelling as if, for the references to that date, there were substituted references to the first subsequent date on which a gross value for that hereditament was shown in the valuation list.

3. If, in pursuance of a proposal made before 1st April 1957, or made on the ground of a change in the occupier or in the circumstances of occupation, the gross value shown for a hereditament in the valuation list was varied after 7th November 1956, then, as regards any rental periods (whether beginning before or after the variation) the 1956 gross value of a dwelling which is or forms part of that hereditament shall be ascertained by reference to the gross value as so varied.

4.—(1) Where a dwelling is or forms part of a hereditament the gross value of which, as shown in the valuation list, was arrived at after such a reduction as was provided for in section 4(3) of the Valuation for Rating Act 1953 (which related to certain hereditaments consisting partly of premises used wholly for the purposes of a private dwelling and partly of other premises) that gross value shall be deemed, for the purposes of Part V of this Act, to be further

reduced by four-sevenths of so much thereof as is attributable to that part of the hereditament which was not used wholly for the purposes of a private dwelling or private dwellings ; and a certificate of the valuation officer shall be conclusive evidence of the amount so attributable.

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(2) In sub-paragraph (1) above, " the valuation officer ", in relation to a valuation list, means any officer of the Commissioners of Inland Revenue who was for the time being appointed by the Commissioners to be the valuation officer or one of the valuation officers, or to be the deputy valuation officer or one of the deputy valuation officers, in relation to that list.

5.—(1) Subject to sub-paragraph (2) below, where a dwelling consists of or forms part of more than one hereditament, the 1956 gross value of the dwelling shall be ascertained by determining the 1956 gross value of each hereditament or part as if it were a separate dwelling and aggregating the gross values so determined.

(2) In determining, for the purposes of this paragraph, the 1956 gross value of any hereditament, that gross value shall be taken to be reduced by four-sevenths if it was ascertained in accordance with the definition of gross value in section 68 of the Rating and Valuation 1925 c. 90. Act 1925.

6. Where a tenant or any previous tenant under a controlled tenancy which began before 6th July 1957 made or contributed to the cost of an improvement on the premises comprised in the tenancy and the improvement was made before 7th November 1956 by the execution of works amounting to structural alteration, extension or addition, the 1956 gross value of the premises shall be reduced by such amount, if any, as may have been agreed or determined in accordance with Part III of Schedule 5 to the Rent Act 1957 (which, in 1957 c. 25. certain cases, provided for a reduction in the 1956 gross value on account of certain improvements if the tenant served the necessary notice on the landlord not later than six weeks after the commencement of that Act).

7. If, at the time of the making of such an agreement as is referred to in paragraph 1 above, the landlord was himself a tenant, then, unless he was tenant under a tenancy having a term with more than seven years to run at that time, the agreement shall not have effect for the purposes of Part V of this Act, except with the concurrence in writing of his immediate landlord.

8. In this Schedule the expression " valuation list " does not include any new valuation list which came into force at any time after July 1957.

SCHEDULE 9

Sections 52, 53.

ADJUSTMENT OF RENT IN RESPECT OF REPAIRS

PART I

ADJUSTMENT OF RENT LIMIT

1.—(1) The provisions of this Part of this Schedule shall have effect in ascertaining the rent limit by reference to the 1956 gross value.

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(2) If under the terms of the tenancy the tenant is responsible for all repairs, the appropriate factor is four-thirds.

(3) If under the terms of the tenancy the tenant is responsible for some but not all repairs, the appropriate factor is such number less than two but greater than four-thirds as may be or have been agreed in writing between the landlord and the tenant or determined by the county court.

2.—(1) In paragraph 1 above the expression “repairs” does not include internal decorative repairs, but if the landlord is responsible for internal decorative repairs under the terms of the tenancy, or neither the landlord nor the tenant is responsible therefor under the terms of the tenancy but the landlord elects to be treated for the purposes of Part V of this Act as responsible therefor,—

(a) “seven-thirds” and “five-thirds” shall be substituted respectively for “two” and “four-thirds” in section 52 of this Act and in paragraph 1 above, and

(b) in the case of an election under this paragraph the question whether the rent limit applicable to any rental period beginning after the election is to be ascertained under subsection (1) or under subsection (4) of section 52 of this Act shall be determined as if the election had always had effect.

(2) An election under this paragraph shall be made by notice in the prescribed form served on the tenant and shall continue in force notwithstanding any change in the person of the landlord.

(3) An election under this paragraph shall not have effect if the tenant dissents from it in writing within one month of the service on the tenant of the notice under sub-paragraph (2) above.

(4) If the tenant duly dissents, Part II of this Act shall have effect as if, in relation to the dwelling in question, the circumstances specified in Case 1 in Schedule 3 to this Act included the case where the tenant has failed to keep the dwelling in a reasonable state of internal decorative repair, having due regard to its age, character and locality.

PART II

ABATEMENT FOR DISREPAIR

Notification of disrepair to landlord

3. The provisions of this Part of this Schedule shall have effect where the tenant under a controlled tenancy serves on the landlord a notice in the prescribed form stating that the dwelling or any part of it is in disrepair by reason of defects specified in the notice, and that those defects ought reasonably to be remedied, having due regard to the age, character and locality of the dwelling, and requesting the landlord to remedy them.

Landlord's undertaking to repair and certificates of disrepair

4.—(1) If, on the expiry of six weeks from the service of a notice under paragraph 3 above, any of the defects specified in the notice

remain unremedied, then, unless the landlord has given an undertaking in the prescribed form to remedy those defects or such of them as the tenant may agree in writing to accept as sufficient, the tenant may in the prescribed form apply to the local authority for a certificate of disrepair.

(2) Any application under this paragraph shall be accompanied by a copy of the notice served on the landlord.

(3) Where an application under this paragraph is made to a local authority and the local authority are satisfied that the dwelling or any part of it is in disrepair by reason of defects specified in the notice served on the landlord and that all or any of those defects ought reasonably to be remedied, having due regard to the age, character and locality of the dwelling, they shall issue to the tenant a certificate of disrepair accordingly.

(4) Any such certificate of disrepair shall be in the prescribed form and shall specify the defects as to which the local authority are satisfied as mentioned in sub-paragraph (3) above, stating that the local authority are so satisfied.

(5) If, on an application by the tenant, the county court is satisfied, with respect to any defects, that the local authority have failed to issue a certificate of disrepair which ought to have been issued, the court shall direct the authority to proceed on the footing that, in relation to those defects, they are satisfied as to the matters specified in sub-paragraph (3) above; and if, on an application by the tenant, the county court is satisfied that any defect not specified in a certificate of disrepair ought to have been specified therein, the court shall order that the defect shall be deemed to have been specified in the certificate.

(6) The local authority shall not be concerned to inquire into any obligation as between a landlord and a tenant or into the origin of any defect; but if, on an application by the landlord, the county court is satisfied, with respect to any defect specified in a certificate of disrepair, that it is one for which the tenant is responsible, the court shall cancel the certificate with respect to that defect.

(7) If, on an application by the landlord, the county court is satisfied with respect to any defect specified in a certificate of disrepair that it ought not to have been so specified, the court shall cancel the certificate with respect to that defect.

(8) Where a certificate of disrepair is cancelled under this paragraph with respect to all the defects specified therein, it shall be deemed never to have had effect; and where it is so cancelled with respect to some only of the defects specified therein, it shall be deemed never to have had those defects specified therein.

5.—(1) Notwithstanding anything in paragraph 4 above, a local authority shall not issue a certificate of disrepair until the expiry of three weeks from the service by them on the landlord of a notice in the prescribed form stating that the authority propose to issue the certificate of disrepair and specifying the defects to which it is to relate; and if, within those three weeks, the landlord gives an undertaking in the prescribed form to remedy those defects and serves a copy of the undertaking on the local authority, then

SCH. 9 subject to the following provisions of this paragraph, the authority shall not issue the certificate.

(2) In any of the circumstances specified in sub-paragraph (3) below, the local authority may refuse to accept such an undertaking as is referred to in sub-paragraph (1) above and may issue a certificate of disrepair, and if they do so the undertaking shall be deemed never to have been given.

(3) The circumstances referred to in sub-paragraph (2) above are—

(a) that a previous certificate of disrepair under this Schedule has been issued against the landlord in respect of the dwelling or any part of it ; or

1957 c. 56.

(b) that the landlord has previously become liable under subsection (3) of section 10 of the Housing Act 1957, as the person having control of the dwelling or of any premises comprising the dwelling, to repay to the local authority (within the meaning of that section) any expenses incurred by them under that section ; or

(c) that the landlord has previously given an undertaking under this Schedule in respect of the dwelling, or any other dwelling in the area of the local authority, and any of the defects to which that undertaking related remained unremedied on the expiry of six months from the giving of the undertaking ; or

1936 c. 49.

(d) that the landlord has previously been convicted of an offence under section 95 of the Public Health Act 1936 of failing to comply with, or contravening, a nuisance order.

6.—(1) Where, after the issue of a certificate of disrepair, the landlord applies to the local authority for the cancellation of the certificate on the ground that the defects specified in the certificate have been remedied, the local authority shall serve on the tenant a notice to the effect that, unless an objection from the tenant is received by them within three weeks from the service of the notice on the ground that those defects or any of them have not been remedied, they propose to cancel the certificate.

(2) If no objection is received as mentioned in sub-paragraph (1) above, or if, in the opinion of the local authority, the objection is not justified, they shall cancel the certificate as from the date of the application or such later date as appears to them to be the date on which the defects specified in the certificate were remedied.

(3) Where the landlord has applied to the local authority for the cancellation of a certificate of disrepair and the authority have not cancelled the certificate, the landlord may apply to the county court, and if on the application the court is satisfied that the certificate ought to have been cancelled by the local authority, the court shall order that the certificate shall cease to have effect as from the date of the order or such earlier date as may be specified in the order.

(4) Where the local authority have cancelled a certificate of disrepair the tenant may apply to the county court, and if on the application the court is satisfied that the certificate ought not to

have been cancelled, the court may order that it shall be deemed not to have been cancelled.

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Abatement of rent where certificate issued or undertaking not carried out

7.—(1) Where an application for a certificate of disrepair is granted, any notice of increase served during the period beginning six months before the date of the application and ending when the certificate ceases to be in force shall have no effect with respect to any rental period beginning while the certificate is in force, except in so far as it specifies an increase authorised by section 54 or section 56 of this Act.

(2) Where a certificate of disrepair is issued, the appropriate factor applicable to any rental period beginning while the certificate is in force shall be four-thirds, and the rent limit shall be ascertained under subsection (1) of section 52 of this Act, notwithstanding anything in subsection (3) of that section or section 110(4) of this Act.

(3) A notice of increase served while a certificate of disrepair is in force shall be void unless it contains a statement that it will not take effect while the certificate is in force, except in so far as the increase specified in it is authorised by section 54 or section 56 of this Act.

(4) Without prejudice to sub-paragraphs (1) to (3) above, but subject to sub-paragraph (5) below, the tenant shall be entitled to withhold rent otherwise recoverable for rental periods beginning while the certificate of disrepair continues in force up to an aggregate amount equal to the aggregate amount of rent for rental periods which began—

(a) on or after the date of the application for the certificate of disrepair, and

(b) before the granting thereof,

being rent which would have been made irrecoverable by the preceding provisions of this paragraph if the certificate had been in force throughout those rental periods.

(5) The amount of rent withheld for any rental period by virtue of sub-paragraph (4) above shall not exceed the amount of rent made irrecoverable by sub-paragraphs (1) to (3) above for the first rental period beginning while the certificate is in force.

(6) Where under paragraph 4 above an application is made to the court for the cancellation of a certificate of disrepair with respect to all the defects specified therein, and the application is made within three weeks after the issue of the certificate, the rent recoverable for any rental period beginning while proceedings on the application are pending shall, until those proceedings are concluded, be deemed to be the same as if the certificate had not been issued.

8.—(1) If on the expiry of six months from the giving of such an undertaking as is mentioned in paragraph 4 or paragraph 5 above, any defects to which the undertaking relates remain unremedied, the

SCH. 9 same consequences shall follow as if a certificate of disrepair had then been issued and had continued in force until the remedying of the defects, and (where the undertaking was given before any application for such a certificate had been made) as if such an application had been made when the undertaking was given.

(2) Where such an undertaking has been given, the landlord or the tenant may apply to the local authority for a certificate under this sub-paragraph, and the local authority shall certify whether any, and if so which, of the defects to which the undertaking relates remain unremedied.

(3) A certificate under sub-paragraph (2) above shall in any proceedings be evidence until the contrary is proved of the matters certified.

9.—(1) If a certificate of disrepair is issued to the tenant of a dwelling, and the dwelling, or any part of it which is in disrepair by reason of the defects specified in the certificate, is subject to a sub-tenancy which is a controlled tenancy, then unless a certificate of disrepair in respect of those defects has been issued to the sub-tenant, the same consequences shall follow as between the tenant and the sub-tenant as if a certificate of disrepair—

- (a) had been issued to the sub-tenant when the certificate was issued to the tenant, and
- (b) had specified the same defects as the certificate issued to the tenant, and
- (c) had been issued on an application made by the sub-tenant when the tenant applied for the certificate issued to him, and
- (d) had continued in force for the same period as that certificate.

(2) Where paragraph 8(1) above has effect as between the landlord and the tenant, sub-paragraph (1) above shall have effect accordingly as between the tenant and the sub-tenant.

(3) Nothing in this paragraph shall prejudice the power of the sub-tenant to obtain a certificate of disrepair or the effect of any undertaking given to the sub-tenant.

General and supplemental

10. The provisions of this Part of this Schedule shall apply, while a controlled tenancy continues, notwithstanding any change in the person of the landlord or the tenant.

11.—(1) The defects which may be specified in a certificate of disrepair shall not include any defects in the state of internal decorative repair unless the landlord is responsible for internal decorative repairs under the terms of the tenancy or is to be treated as responsible therefor by virtue of an election under paragraph 2 of this Schedule.

(2) In considering whether or not to issue a certificate of disrepair or what defects to specify in such a certificate, the local authority shall treat the landlord as responsible for internal decorative repairs if the application for a certificate alleges that he is responsible therefor or that he is to be treated as responsible therefor by virtue

of an election under paragraph 2 of this Schedule, but in any other case the local authority shall treat the landlord as not responsible for such repairs.

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(3) Paragraph 4(6) of this Schedule shall apply in relation to a defect in the state of internal decorative repair as if, for the words "for which the tenant is responsible", there were substituted the words "for which the landlord is not responsible and is not to be treated as responsible by virtue of an election under paragraph 2 of this Schedule".

12.—(1) On an application to the local authority for a certificate of disrepair or a certificate under paragraph 8(2) of this Schedule, there shall be paid to the local authority a fee of two shillings and sixpence, but where a certificate of disrepair, or a certificate under that paragraph certifying that any defects remain unremedied, is granted to the tenant he shall be entitled to deduct the fee from any subsequent payment of rent to the landlord.

(2) If a certificate of disrepair is cancelled by the court under paragraph 4 of this Schedule with respect to all the defects specified in the certificate, any sum deducted under this paragraph may be recovered by the landlord.

(3) On an application to the local authority for the cancellation of a certificate of disrepair, there shall be paid to the local authority a fee of two shillings and sixpence.

13. In the case of a controlled tenancy of a dwelling which forms part of any other premises owned by or under the control of the landlord or a superior landlord,—

(a) any disrepair of the roof or of any other part of those premises which results, or may result, in disrepair of the dwelling, and

(b) any disrepair of any staircase or other approach to the dwelling contained in those premises,

shall be treated for the purposes of this Part of this Schedule as if it were disrepair of the dwelling.

14. The local authority shall serve a copy of every certificate of disrepair issued by them on the landlord.

15.—(1) In this Part of this Schedule, references to defects for which the tenant is responsible are references—

(a) to defects for the remedying of which, as between the landlord and the tenant, the tenant is responsible; or

(b) to defects which are due to any act, neglect or default of the tenant or any person claiming under him or to any breach by the tenant or such a person of any express agreement.

(2) In this Part of this Schedule, except where the context otherwise requires, "local authority", in relation to any premises, means the council of the county borough, London borough or county district in which the premises are situated or, if they are situated in the City of London, the Common Council of the City of London.

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PART III

**CERTIFICATE OF REPAIR WHERE LANDLORD IS OVERSEAS
COMPANY**

16. In a case falling within subsection (5) of section 53 of this Act, except where the tenant is responsible for all repairs, a notice of increase served in respect of the dwelling by the landlord referred to in that subsection shall not have effect unless either a certificate of repair has been issued to the landlord with respect to the dwelling not earlier than twelve months before the service of the notice of increase or a previous notice of increase served by that landlord in respect of the dwelling has had effect.

17.—(1) If, on an application for a certificate of repair made by the landlord in the prescribed form and stating the name of the tenant, the local authority are satisfied that the state of repair of the dwelling is such that (without regard to paragraph 11 of this Schedule) no certificate of disrepair could be issued in respect of the dwelling, the local authority shall issue the certificate of repair and shall serve a copy of the certificate on the tenant.

(2) On an application for a certificate of repair there shall be paid to the local authority a fee of two shillings and sixpence.

18. If, on an application for a certificate of repair, the local authority are not satisfied as mentioned in paragraph 17 above, the authority shall send to the landlord a statement of the defects in consequence of which they are unable to issue the certificate of repair and if, on an application to the county court, the landlord proves that all the defects specified in the statement are either defects for which the tenant is responsible or defects amounting only to internal decorative disrepair and for which the landlord is not responsible, the court shall order the local authority to issue a certificate of repair.

19. If, after the issue of a certificate of repair, a certificate of disrepair is issued in respect of the same dwelling, the certificate of repair shall be deemed never to have been issued.

20.—(1) In this Part of this Schedule, references to defects for which the tenant is responsible are references—

- (a) to defects for the remedying of which, as between the landlord and the tenant, the tenant is responsible ; or
- (b) to defects which are due to any act, neglect or default of the tenant or any person claiming under him or to any breach by the tenant or such a person of any express agreement.

(2) In this Part of this Schedule “local authority”, in relation to any premises, means the council of the county borough, London borough or county district in which the premises are situated or, if they are situated in the City of London, the Common Council of the City of London.

SCHEDULE 10

Section 69.

RENT TRIBUNALS

1. A rent tribunal shall consist of a chairman and two other members.

2.—(1) Subject to paragraph 3 below, the chairman and other members of a rent tribunal shall be appointed by the Minister.

(2) Subject to paragraph 3 below, during the absence or incapacity of any member of a rent tribunal a person appointed by the Minister shall act in his place.

3.—(1) Where a rent tribunal acts for an area (whether consisting of one or more districts in which Part VI of this Act is in operation) wholly comprised in the area for which a panel is formed under Schedule 5 to this Act, the Minister may direct the president of that panel to exercise, on behalf of the Minister, the Minister's powers of appointment under paragraph 2 above.

(2) A person appointed by the president of a panel by virtue of a direction under this paragraph shall be selected by the president from that panel.

(3) While a direction is in force under this paragraph section 3 of the Tribunals and Inquiries Act 1958 (appointment of chairmen) 1958 c. 66. shall not apply to the rent tribunal in question, but the president shall appoint as chairman or person to act as chairman of the rent tribunal either himself or one of the other members of the panel appointed by the Lord Chancellor.

4. The members and acting members of a rent tribunal shall receive such remuneration and such travelling and other allowances as the Minister of Housing and Local Government may, with the consent of the Treasury, determine.

5.—(1) A rent tribunal may appoint a clerk and, with the approval of the Minister of Housing and Local Government as to numbers, such other officers and servants as they think fit.

(2) There shall be paid to the clerk and other officers and servants such salary and allowances as the Minister of Housing and Local Government, with the consent of the Treasury, may determine.

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

(a) the remuneration and allowances of members and acting members of a rent tribunal ;

(b) the salaries and allowances of the clerk and other officers appointed under this Schedule ; and

(c) such other expenses of a rent tribunal as the Treasury may determine.

Section 86.

SCHEDULE 11

**PREMIUM ALLOWED ON ASSIGNMENT OF TENANCY WHERE
PREMIUM LAWFULLY PAID ON GRANT**

1.—(1) The provisions of this Schedule apply where—

- (a) a premium was lawfully required and paid, or lawfully received, in respect of the grant, continuance or renewal of a protected tenancy of a dwelling-house which is a regulated tenancy ; and
- (b) since that grant, continuance or renewal, the landlord has not granted a tenancy of the dwelling-house under which, as against the landlord, a person became entitled to possession, other than the person who was so entitled to possession of the dwelling-house immediately before that tenancy began ; and
- (c) a rent for the dwelling-house is registered under Part IV of this Act and the rent so registered is higher than the rent payable under the tenancy.

(2) Any reference in this Schedule to a premium does not include a premium which consisted only of any such outgoing, sum or amount as fall within section 86(3) of this Act and, in the case of a premium which included any such outgoing, sum or amount, so much only of the premium as does not consist of those outgoing, sum or amount shall be treated as the premium for the purposes of this Schedule.

2. In a case where this Schedule applies, nothing in section 86 of this Act shall prevent any person from requiring or receiving, on an assignment of the protected tenancy referred to in paragraph 1(a) above or any subsequent protected tenancy of the same dwelling-house, a premium which does not exceed an amount calculated (subject to paragraph 4 below) in accordance with the formula in paragraph 3 below.

3. The formula mentioned in paragraph 2 above is—

$$\frac{P \times A}{G}$$

where

- P is the premium referred to in paragraph 1(a) above ;
- A is the length of the period beginning on the date on which the assignment in question takes effect and ending on the relevant date ; and
- G is the length of the period beginning on the date of the grant, continuance or renewal in respect of which the premium was paid and ending on the relevant date.

4.—(1) If, although the registered rent is higher than the rent payable under the tenancy, the lump sum equivalent of the difference is less than the premium, paragraph 3 above shall have effect as if P were the lump sum equivalent.

(2) For the purposes of this Schedule, the lump sum equivalent of the difference between the two rents referred to in sub-paragraph (1) above shall be taken to be that difference multiplied by the number of complete rental periods falling within the period beginning with the grant, continuance or renewal in respect of which the premium was paid and ending on the relevant date.

5. Where any rates in respect of the dwelling-house are borne by the landlord or a superior landlord, the amount of the registered rent shall be taken, for the purposes of this Schedule, to be increased by the amount of the rates so borne in respect of the rental period comprising the date from which the registration took effect.

6.—(1) Any reference in this Schedule to the relevant date shall be construed in accordance with this paragraph.

(2) Where the tenancy referred to in paragraph 1(a) above was granted, continued or renewed for a term of years certain exceeding seven years and that term has not expired when the assignment takes effect, the relevant date is the date of the expiry of that term.

(3) In any other case, the relevant date is the date of the expiry of seven years from the commencement of the term, or, as the case may be, the continuance or renewal of the term in respect of which the premium was paid.

(4) For the purposes of this paragraph—

- (a) a term of years shall be treated as certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term ; and
- (b) a term of years determinable by the landlord giving notice to determine it shall be treated as a term of years certain expiring on the earliest date on which such a notice given after the date of the assignment would be capable of taking effect.

SCHEDULE 12

Section 96.

RESTRICTIONS APPLICABLE TO CONTROLLED MORTGAGES

PART I

RESTRICTIONS RELATING TO INTEREST RATES

1.—(1) This paragraph applies to a controlled mortgage which was created before 2nd July 1920 and to which, on that date and immediately before the commencement of this Act, the Increase of Rent 1920 c. 17. and Mortgage Interest (Restrictions) Act 1920 applied.

(2) If the rate of interest on a mortgage to which this paragraph applies has been, at any time since 25th March 1920, or is, after the commencement of this Act, increased beyond the limit permitted under this paragraph, the amount of the excess over that limit is irrecoverable from the mortgagor, notwithstanding any agreement to the contrary.

SCH. 12 (3) The limit to which the rate of interest payable in respect of a mortgage to which this paragraph applies may be increased is $6\frac{1}{2}$ per cent. per annum or 1 per cent. per annum above the standard rate of interest, whichever is the less.

(4) In this paragraph "the standard rate of interest" means—

(a) in the case of a mortgage which was in force on 3rd August 1914, the rate of interest payable at that date; and

(b) in the case of any other mortgage to which this paragraph applies, the original rate of interest.

1939 c. 71.

2.—(1) This paragraph applies to a controlled mortgage to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1933, as modified by Schedule 1 to the Rent and Mortgage Interest Restrictions Act 1939, applied immediately before the commencement of this Act.

(2) In so far as the rate of interest on a mortgage to which this paragraph applies has been, at any time since 1st September 1939, or is, after the commencement of this Act, increased beyond the standard rate of interest, the amount of the excess is irrecoverable from the mortgagor, notwithstanding any agreement to the contrary.

(3) In this paragraph "the standard rate of interest" means—

(a) in the case of a mortgage which was in force on 1st September 1939, the rate of interest payable at that date; and

(b) in the case of any other mortgage to which this paragraph applies, the original rate of interest.

(4) Sub-paragraphs (2) and (3) above shall have effect subject to paragraphs 3 and 4 below.

1952 c. 40.

3. In relation to a mortgage to which paragraph 2 above applies but which became a mortgage to which the Acts referred to in that paragraph applied by virtue of the Crown Lessees (Protection of Sub-Tenants) Act 1952, for any reference in paragraph 2 above to 1st September 1939 there shall be substituted a reference to 8th February 1952.

1954 c. 53.

4. In relation to a mortgage to which paragraph 2 above applies but which became a mortgage to which the Acts referred to in that paragraph applied by virtue of section 33 of the Housing Repairs and Rents Act 1954, for any reference in paragraph 2 above to 1st September 1939 there shall be substituted a reference to the following date, that is to say,—

(a) 11th November 1953, if on that date the dwelling-house which is the subject of the mortgage was let under a tenancy to which the Acts referred to in paragraph 2(1) above applied as from the commencement of the said Act of 1954; and

(b) in any other case, the date between 11th November 1953 and the commencement of that Act (30th August 1954) on which it was first so let.

PART II

SCH. 12

RESTRICTIONS ON ENFORCEMENT OF SECURITY

5.—(1) Subject to the following provisions of this Part of this Schedule, a mortgagee under a controlled mortgage shall not be entitled to call in his mortgage or to take any steps for exercising any right of foreclosure or sale, or for otherwise enforcing his security or for recovering the principal money thereby secured if and so long as—

- (a) interest at the rate permitted under this Schedule is paid and is not more than twenty-one days in arrears ; and
- (b) the mortgagor's covenants are performed and observed (but for this purpose the covenant for the repayment of the principal money secured shall be disregarded) ; and
- (c) the mortgagor keeps the property in a proper state of repair ; and
- (d) the mortgagor pays all interest and instalments of principal recoverable under any prior incumbrance.

(2) Nothing in this paragraph affects any power of sale exercisable by a mortgagee who,—

- (a) in the case of a mortgage falling within paragraph 1 above, was in possession on 25th March 1920 ; or
- (b) in the case of a mortgage falling within paragraph 2 above, was in possession on 1st September 1939 or whichever other date is relevant for the purposes of sub-paragraph (2) of that paragraph, having regard to the provisions of paragraphs 3 and 4 above.

6.—(1) Paragraph 5 above does not apply to a mortgage where the principal money secured thereby is repayable by means of periodical instalments extending over a term of not less than ten years from the creation of the mortgage.

(2) Paragraph 5 above does not apply in any case where the mortgagor consents to the exercise by the mortgagee of the powers conferred by the mortgage.

7.—(1) If a controlled mortgage is a mortgage of a leasehold interest and the mortgagee satisfies the county court that his security is seriously diminishing in value or is otherwise in jeopardy, and for that reason it is reasonable that the mortgage should be called in and enforced, the court may by order authorise him to call in and enforce the same, and thereupon paragraph 5 above shall not apply to the mortgage.

(2) Any order under sub-paragraph (1) above may be made subject to a condition that it shall not take effect if the mortgagor, within such time as the court directs, pays to the mortgagee such portion of the principal sum secured as appears to the court to correspond to the diminution of the security.

Section 110.

SCHEDULE 13

RENTS OF SUBSIDISED PRIVATE HOUSES NOT SUBJECT TO
CONTROLLED TENANCIES

1.—(1) The provisions of this paragraph apply, subject to sub-paragraph (6) of this paragraph and to paragraph 2 below, where a condition to which section 110 of this Act applies—

(a) was imposed before 8th December 1965, and

(b) limits the rent under a tenancy which is not a controlled tenancy.

(2) Any such condition as is referred to in sub-paragraph (1) above shall limit, or as the case may be shall have effect as if it limited, the rent to the amount which would be the rent limit if the tenancy were a controlled tenancy and,—

(a) in ascertaining that amount in a case where a dwelling-house was produced by the conversion of any premises and the conversion resulted in a change in the valuation list after 7th November 1956, any entry in that list before the change shall be disregarded ; and

(b) the provisions of Part V of this Act enabling rents to be increased and the provisions of that Part and of section 105(1) of this Act conferring jurisdiction on the county court shall apply in relation to the tenancy as they apply in relation to a controlled tenancy.

(3) In sub-paragraph (2) above “the rent limit” has the same meaning as in Part V of this Act except that if any such condition as is referred to in sub-paragraph (1) above was imposed before 6th July 1957 and then limited the rent to an amount exceeding what would be the rent limit if ascertained under subsections (1) and (2) of section 52 of this Act, the rent limit shall be that amount, subject however to the provisions of subsection (3) of that section.

(4) Notwithstanding anything in subsection (3) of section 56 of this Act, for the purposes of that section as applied by sub-paragraph (2)(b) above, a reference to any tenant of the dwelling shall be substituted in that subsection for the reference to a tenant under a controlled tenancy and the appropriate percentage shall be 12½ per cent. in relation to the rent under any tenancy created by a lease or agreement coming into operation after the time when the improvement is begun ; but for this purpose, where a person to whom a tenancy was granted was, immediately before the granting, the tenant under another tenancy and the premises comprised in one of the tenancies are the same as, or consist of or include part of, the premises comprised in the other, the two tenancies shall be treated as together constituting one tenancy created by the lease or agreement which created the first of the two tenancies.

(5) Nothing in this paragraph shall be construed as applying the provisions of Part II of Schedule 9 to this Act to a tenancy which is not a controlled tenancy.

(6) In any case where, by virtue of section 33 of the Housing (Financial Provisions) Act 1958, the condition falling within sub-paragraph (1) above is that in paragraph 4 of Schedule 4 to that Act and either— Sch. 13
1958 c. 42

(a) the application for the grant, as a result of which the condition was imposed, was made on or after 16th August 1964, or

(b) the application for the grant was made before that date but, by virtue of section 12 of the House Purchase and Housing Act 1959, the condition limits the rent to a rent fixed under subsection (1) of that section which is higher than the limit which would apply under sub-paragraph (2) above, 1959 c. 33.

then sub-paragraph (2) above shall not apply and the condition shall continue to limit the rent as it did before the commencement of this Act.

2.—(1) The provisions of this paragraph apply where such a condition as is referred to in paragraph 1(1) above limits the rent under a tenancy which is neither a regulated nor a controlled tenancy and either—

(a) the interest of the landlord belongs to a housing trust, as mentioned in subsection (2)(g) of section 5 of this Act ; or

(b) that interest belongs to a housing association, as mentioned in subsection (5) of that section, and one of the conditions specified in subsection (6) of that section is fulfilled.

(2) Where this paragraph applies, sub-paragraphs (2) to (6) of paragraph 1 above shall not have effect in relation to the condition in question.

(3) In a case where this paragraph applies, the condition shall limit, or as the case may be shall have effect as if it limited, the rent to such amount as may from time to time be or have been agreed between the housing trust or association and the local authority or as may, in default of agreement, be or have been determined by the Minister ; but if the condition was imposed before 6th July 1957 it shall, until the said amount has been so agreed or determined, have effect as if this Act and the Rent Act 1957 had not been passed. 1957 c. 25.

3.—(1) The provisions of this paragraph apply in relation to a condition imposed by virtue of section 33 of the Housing (Financial Provisions) Act 1958 if—

(a) the condition is imposed after the commencement of this Act or was imposed after 7th December 1965 ; and

(b) the condition limits the rent under a tenancy which is neither a regulated nor a controlled tenancy ; and

(c) either the interest of the landlord belongs to a housing trust, as mentioned in subsection (2)(g) of section 5 of this Act, or that interest belongs to a housing association, as mentioned in subsection (5) of that section, and one of the conditions specified in subsection (6) of that section is fulfilled.

SCH. 13 (2) In a case where this paragraph applies, the condition shall limit, or as the case may be shall have effect as if it limited, the rent to such amount as may from time to time be or have been agreed between the housing trust or association and the local authority or as may, in default of agreement, be or have been determined by the Minister.

4.—(1) Subject to sub-paragraph (2) below, in paragraphs 2 and 3 above “local authority”, in relation to any premises, means the council of the county borough, London borough or county district in which the premises are situated or, if they are situated in the City of London, the Common Council of the City of London.

1958 c. 42.

(2) In the case of houses the construction of which was promoted either by the London County Council or by the Greater London Council or in respect of which improvement grants were made by either of those councils under the Housing (Financial Provisions) Act 1958, the reference in sub-paragraph (1) above to the local authority shall be construed as a reference to the Greater London Council.

1959 c. 33.

5. Any reference in this Schedule to a condition imposed by virtue of section 33 of the Housing (Financial Provisions) Act 1958 includes a reference to a condition imposed by virtue of that section as applied by section 7 of the House Purchase and Housing Act 1959.

Section 117(1).

SCHEDULE 14

MODIFICATIONS APPLICABLE TO CERTAIN EXISTING PROTECTED AND STATUTORY TENANCIES

Dwelling-houses controlled before 1939

1957 c. 25.

1.—(1) If, in relation to a dwelling-house which immediately before the commencement of this Act was let on or subject to a controlled tenancy within the meaning of the Rent Act 1957, the relevant enactment in force at that time for the purpose of determining whether any land or premises let together with such a dwelling-house was to be treated as part of the dwelling-house was proviso (iii) to section 12(2) of the Act of 1920 (and not section 3(3) of the Act of 1939), then, in relation to that controlled tenancy, for subsection (2) of section 1 of this Act there shall be substituted the following subsection:—

1920, c. 17.

(2) For the purposes of this Act, any land or premises let together with a dwelling-house shall, if the original rateable value of the land or premises let separately would be less than one-quarter of the original rateable value of the dwelling-house, be treated as part of the dwelling-house; and for the purposes of this subsection “the original rateable value” means the value which, before the commencement of this Act, was the rateable value for the purposes of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920.

(2) If, immediately before the commencement of this Act, a dwelling-house was let on or subject to a controlled tenancy within

the meaning of the Rent Act 1957 and, for the purpose of determining that the controlled tenancy was not excluded from the Act of 1920 by virtue of section 12(7) of that Act (tenancies at less than two-thirds of rateable value), the expression "rateable value" fell to be construed in accordance with paragraph (e) of section 12(1) of the Act of 1920 as originally enacted (and not in accordance with the substituted paragraph set out in Schedule 1 to the Act of 1939) then, in relation to that controlled tenancy, for paragraph (a) of section 7(3) of this Act there shall be substituted the following paragraph:—

(a) the rent payable under the tenancy is not less than two-thirds of the value which, before the commencement of this Act, was the rateable value of the dwelling-house for the purposes of the Increase of Rent and Mortgage Interest 1920 c. 17. (Restrictions) Act 1920.

(3) In this paragraph "the Act of 1920" means the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 and "the Act of 1939" means the Rent and Mortgage Interest Restrictions Act 1939 c. 71. 1939.

*Controlled tenancies of dwelling-houses over
1965 limits of rateable value*

2. If the rateable value of a dwelling-house on 23rd March 1965 exceeded the relevant limit in paragraph (a) of section 1(1) of this Act but the rateable value (determined in accordance with paragraph 2 of Schedule 2 to this Act) of that dwelling-house on 7th November 1956 did not exceed the relevant limit in paragraph 1(a) of that Schedule, then no account shall be taken of paragraph (a) of section 1(1) of this Act in determining whether the dwelling-house is let on or subject to a controlled tenancy.

Certain controlled tenancies excluded from orders under s. 8

3. An order under section 8 of this Act shall not apply to a controlled tenancy which is a statutory tenancy subsisting under section 4 of the Requisitioned Houses and Housing (Amendment) Act 1955.

SCHEDULE 15

Section 117(2).

AMENDMENTS OF OTHER ENACTMENTS

| <i>Enactment</i> | <i>Amendment</i> |
|---|---|
| The Housing (Rural Workers) Act 1926 (16 & 17 Geo. 5. c. 56). | In section 3, in subsection (1), for paragraph (b) there shall be substituted the following paragraph:— (b) the rent payable by the occupier in respect of the dwelling shall not exceed the limit imposed by section 110 of or Schedule 13 to the Rent Act 1968, and no fine, premium or other like sum shall be taken in addition to the rent. |

SCH. 15

*Enactment**Amendment*

The Landlord and
Tenant Act 1927
(17 & 18 Geo. 5.
c. 36).

In section 16, for the words from " anything to the contrary " (in the section as originally enacted) to the end of the section there shall be substituted the words " and shall be so recoverable notwithstanding anything in Part V of the Rent Act 1968 ".

The Reserve and
Auxiliary Forces
(Protection of Civil
Interests) Act 1951
(14 & 15 Geo. 6.
c. 65).

In section 14(2), for paragraph (a) there shall be substituted the following paragraph:—

(a) is a dwelling-house which consists of or comprises premises licensed for the sale of intoxicating liquor on the premises; or.

In section 15, in subsection (1), for the words in paragraph (a) from " subsection " to " 1946 " there shall be substituted the words " section 70(1) of the Rent Act 1968 "; for the words from " (c) the conditions " to the end of the subsection there shall be substituted the following:—

(c) the condition specified in subsection (1)(b) of section 78 of the Rent Act 1968 is not fulfilled,

the said section 78 shall apply in relation to the notice to quit as if that condition had been fulfilled as to the contract under which that tenancy subsists;

in subsection (3) of that section, as originally enacted, for the words from the beginning to the second " quit " there shall be substituted the words " The subsistence of a Crown interest in premises shall not affect the operation of this section " and at the end of that subsection there shall be added the words " but nothing in this subsection shall be construed as excluding the operation of this Part of this Act in cases where there subsists a Crown interest not being the reversion immediately expectant on the tenancy in question "; in subsections (4) and (5) of that section for the words " section eleven ", in each place where they occur, there shall be substituted the words " section 78 "; and in subsection (5) of that section, for the words from " the Furnished Houses (Rent Control) Act 1946 " to the end of the subsection there shall be substituted the words " Part VI of the Rent Act 1968 by section 70(4) of that Act ".

*Enactment**Amendment*

SCH. 15

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

In section 16, in subsection (1), for the words "the Rent Restrictions Acts" there shall be substituted the words "Part II of the Rent Act 1968"; and for subsection (2) of that section there shall be substituted the following subsections:—

(2) The circumstances referred to in the last preceding subsection are any one or more of the following, that is to say,—

- (a) that the rateable value on the appropriate day (as defined for the purposes of the Rent Act 1968) of the premises which are the rented family residence, or of a property of which at the ending of the tenancy qualifying for protection those premises form part, exceeded the relevant limit specified in subsection (1)(a) of section 1 of that Act;
- (b) that the reversion immediately expectant on the tenancy qualifying for protection belongs to any of the bodies specified in subsection (2) of section 5 of the Rent Act 1968 other than the Housing Corporation;
- (c) that the reversion immediately expectant on the tenancy qualifying for protection belongs to such a housing association as is referred to in subsection (5) of section 5 of the Rent Act 1968 and that one of the conditions specified in subsection (6) of that section is fulfilled;
- (d) that immediately before the ending of the tenancy qualifying for protection the circumstances mentioned in paragraph (a) of section 2(1) of the Rent Act 1968 applied with respect to that tenancy or with respect to a tenancy having effect subject to that tenancy;
- (e) that immediately before the ending of the tenancy qualifying for protection those premises were let together with agricultural land exceeding two acres in extent but were not such a

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Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

Amendment

dwelling-house as is mentioned in paragraph (d) of section 2(1) of the Rent Act 1968.

(3) The following provisions of this section shall have effect with respect to a statutory tenancy arising under this section.

(4) Subject to the following provisions of this section, the rent for any rental period for which it is neither increased nor reduced under the provisions of Part V of the Rent Act 1968 shall be of an amount equal to the rent limit ascertained under section 52(1) of that Act.

(5) Where the rent payable for the last rental period of the tenancy qualifying for protection (hereinafter referred to as "the contractual rent") was greater than the amount mentioned in subsection (4) of this section, the rent payable for any such rental period as is mentioned in that subsection shall be of an amount equal to the contractual rent; and where this subsection has effect the rent limit shall be an amount equal to the contractual rent, but subject to adjustment from time to time under sections 54 and 55 of the Rent Act 1968 and under section 56 thereof except with respect to improvements completed before the beginning of the statutory tenancy, and to reduction as provided by Part II of Schedule 9 to that Act in case of disrepair.

(6) Subsections (4) and (5) of this section shall have effect subject to any agreement between the parties for the payment of a lower rent; and where a lower rent is agreed it shall not be increased under Part V of the Rent Act 1968, but may, notwithstanding anything in that Part of that Act, be increased up to the rent limit by agreement in writing between the parties.

(7) In subsections (4) to (6) of this section, "improvement", "rental period" and "the rent limit" have the same meanings as in Part V of the Rent Act 1968.

Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

Amendment

SCH. 15

In section 17, in subsection (1), for the words from “(b) by reason only” to the words “the said section eight” there shall be substituted the words—

“(b) by reason only of such circumstances as are mentioned in subsection (2) of the last preceding section, subsection (1) of section 102 of the Rent Act 1968 (provisions where tenant shares accommodation with persons other than landlord) did not have effect with respect to the separate accommodation,

the said section 102”;

and in place of subsection (2) of that section (which was repealed by the Rent Act 1957) there shall be inserted the following subsection:—

(2) The provisions of subsections (4) to (7) of section 16 of this Act shall have effect with respect to a statutory tenancy arising under this section as they have effect with respect to a statutory tenancy arising under that section.

In section 18, in subsection (1), for the words “the Rent Restrictions Acts” there shall be substituted the words “Part II of the Rent Act 1968” and for the words “a dwelling-house to which those Acts apply” there shall be substituted the words “a dwelling-house subject to a statutory tenancy within the meaning of the Rent Act 1968”; and in place of subsection (2) of that section (which was repealed by the Rent Act 1957) there shall be substituted the following subsection:—

(2) The provisions of subsections (4) to (7) of section 16 of this Act shall have effect with respect to a statutory tenancy arising under this section as they have effect with respect to a statutory tenancy arising under that section.

In section 19, in subsection (1), for the words “the Rent Restrictions Acts” there shall be substituted the words “the Rent Act 1968”; subsection (4) of that section shall be omitted; in subsection (5) of that section, for the words “mortgage to which the Rent Restrictions Acts apply” there shall be substituted the words “controlled

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Enactment

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—*cont.*

Amendment

mortgage” and for the words from “the expression” to the end of the subsection, there shall be substituted the words “the expression ‘mortgage’ includes any charge registered under the Land Registration Act 1925 and the expression ‘controlled mortgage’ has the same meaning as in Part VIII of the Rent Act 1968”; and subsection (6) of that section shall be omitted.

In section 20, in subsection (1), for the words “paragraph (a) of the First Schedule to the Rent Act of 1933” there shall be substituted the words “Case 1 in Schedule 3 to the Rent Act 1968”; in subsection (2) of that section, for the words “Paragraph (g) of the said First Schedule” there shall be substituted the words “Case 7 in the said Schedule 3”, and for the words “the Rent Restrictions Acts apply”, in paragraph (b) of that subsection, there shall be substituted the words “Part II of the Rent Act 1968 applies in relation”; in subsection (3) of that section, for the words “the said First Schedule” there shall be substituted the words “the Cases in Part I of the said Schedule 3” and for the words “subsection (1) of section 3 of the Rent Act of 1933” there shall be substituted the words “section 10(1) of the Rent Act 1968”.

In section 21, in subsection (1), for the words from “paragraph 1” to “1948” there shall be substituted the words “paragraph (d) of section 2(1) of the Rent Act 1968”.

In section 22, in subsection (1), for the words from “brought before” to “1946” there shall be substituted the words “brought under Part III of the Rent Act 1965 or under Part II, Part III or Part IV of the Rent Act 1968, or of any proceedings consequential upon the making of a reference or application to a rent tribunal under Part VI of that Act”, and after subsection (3) of that section there shall be inserted the following subsection:—

(3A) In relation to any proceedings before a rent officer or rent assessment committee, within the meaning of the Rent Act 1968, subsections (1) to (3) of this section shall have effect as if the references to the court or tribunal included references to a rent officer or rent assessment committee.

*Enactment**Amendment*

SCH. 1

- The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (14 & 15 Geo. 6. c. 65)—cont.** In section 23, in subsection (1), in the definition of “agricultural land” for the words “in the Rent Act of 1939” there shall be substituted the words “it has for the purposes of section 1(2) of the Rent Act 1968”, in the definitions of “landlord” and “tenant” and of “statutory tenancy” for the words “the Rent Restrictions Acts” and “those Acts” there shall be substituted the words “the Rent Act 1968”; and in subsection (3) of that section, for the words “the Rent Restrictions Acts” there shall be substituted the words “the Rent Act 1968”.
- In section 64, in subsection (1), the definition beginning “Rent Restrictions Acts” shall be omitted.
- The Housing Repairs and Rents Act 1954 (2 & 3 Eliz. 2. c. 53).** In section 50(1), for the words “Part II of this Act”, there shall be substituted the words “the Rent Act 1968”.
- The Landlord and Tenant Act 1954 (2 & 3 Eliz. 2. c. 56).** In section 1, for the words “Rent Acts” there shall be substituted the words “Rent Act”.
 In section 2, in subsection (1), for the words “Rent Acts” there shall be substituted the words “Rent Act”; and in subsection (5), in the passage substituted for paragraphs (a) and (b) by section 39(1)(b)(ii) of the Leasehold Reform Act 1967, for the words “Rent Act 1965”, there shall be substituted the words “Rent Act 1968”.
- In section 3(3), for the words “Rent Acts” there shall be substituted the words “Rent Act”.
- In section 6, in subsection (1), for the words “the Rent Acts shall apply” there shall be substituted the words “the Rent Act shall apply”; and in subsection (2) of that section for the words “said Acts” there shall be substituted the words “Rent Act”.
- In section 7(6), for the words “Rent Acts” there shall be substituted the words “Rent Act”.
- In section 10(2), for the words from “on any of the grounds” to “Act of 1933” there shall be substituted the words “in any of the circumstances specified in Cases 1 to 3 in Schedule 3 to the Rent Act”.

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*Enactment**Amendment*

The Landlord and
Tenant Act 1954
(2 & 3 Eliz. 2. c. 56)
—*cont.*

In section 12, in subsection (1)(b), for the words from “grounds on which” to the end of the subsection there shall be substituted the words “Cases 1 to 8 in Schedule 3 to the Rent Act which specify circumstances in which a court may make an order for possession under that Act” ; and in subsection (2)(a) of that section for the words “Rent Acts” there shall be substituted the words “Rent Act”.

In section 18(2), for the words “Rent Acts” there shall be substituted the words “Rent Act”.

In section 21(4), for the words “Rent Acts apply” there shall be substituted the words “Rent Act applies” and for the words “Rent Acts”, in the second place where those words occur, there shall be substituted the words “Rent Act”.

In section 22, in subsection (1) for the definition of “the Rent Acts” there shall be substituted the following definition:—

“the Rent Act” means the Rent Act 1968 as it applies to regulated tenancies but exclusive of Parts III to VI thereof;

and in subsection (2) of that section for the words “Rent Acts” there shall be substituted the words “Rent Act”.

In section 43(1), for paragraph (c) there shall be substituted the following paragraph:—

(c) to a tenancy which is excluded from this Part of this Act by section 9(3) of the Rent Act 1968; or.

In Schedule 1, in paragraph 17, for the words “paragraph (a) of the First Schedule to the Act of 1933” there shall be substituted the words “Case 1 in Schedule 3 to the Rent Act”; and in paragraph 19 of that Schedule, for the words “Rent Acts” there shall be substituted the words “Rent Act”.

In Schedule 2, in paragraph 4, for the words “paragraph (a) of the First Schedule to the Act of 1933” there shall be substituted the words “Case 1 in Schedule 3 to the Rent Act”.

*Enactment**Amendment*

SCH. 15

- The Landlord and Tenant Act 1954 (2 & 3 Eliz. 2. c. 56)**
—*cont.*
- In Schedule 3, for paragraph 2, there shall be substituted the following paragraph:—
2. Part IV of Schedule 3 to the Rent Act (which relates to the circumstances in which suitable accommodation is to be deemed to be available for the tenant) shall apply for the purposes of this Schedule as it applies for the purposes of section 10(1)(a) of that Act.
- The Requisitioned Houses and Housing (Amendment) Act 1955 (3 & 4 Eliz. 2. c. 24).**
- In section 4, in paragraph (b) of subsection (2), for the words “the Rent Acts” and the words “those Acts” there shall be substituted the words “the Rent Act 1968”; after the words “terms and conditions”, in the paragraph as originally enacted, there shall be inserted the words “(other than terms as to rent)”; in subsection (3) of that section, for the words from the beginning to “of a dwelling” there shall be substituted the words “Subject to the provisions of the Rent Act 1968, the rent of a dwelling”; and subsection (4) of that section shall be omitted.
- The Housing Act 1957 (5 & 6 Eliz. 2. c. 56).**
- In sections 16(5), 22(5), 27(5), 45(6) and 57(9), for the words “the Rent Acts” there shall be substituted the words “the Rent Act 1968”.
- In section 68, in subsection (2), for the words “to which the Rent Acts apply” there shall be substituted the words “let on or subject to a protected or statutory tenancy, within the meaning of the Rent Act 1968”; for the words “the Rent and Mortgage Interest Restrictions (Amendment) Act 1933” there shall be substituted the words “the Rent Act 1968”; and for the words “subsection (2) of section three of” there shall be substituted the words “paragraph 1 of Part IV of Schedule 3 to”.
- In section 73(4), for the words “the Rent Acts” there shall be substituted the words “the Rent Act 1968”.
- In section 104, in subsection (3) as it applies to conditions imposed under that subsection after 7th December 1965, in paragraph (b) (as originally enacted) the words “to the limit imposed by section twenty of the Rent Act 1957” shall be omitted; and in that paragraph as it applies to conditions imposed before 8th December 1965, for

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*Enactment**Amendment*

The Housing Act 1957
(5 & 6 Eliz. 2. c. 56)
—cont.

the words “ section twenty of the Rent Act 1957 ” there shall be substituted the words “ Schedule 13 to the Rent Act 1968 ”.

In section 158(1), for the words “ the Rent Acts ” there shall be substituted the words “ the Rent Act 1968 ”.

In section 189(1) the definition of “ the Rent Acts ” shall be omitted.

In Schedule 2, in paragraph 7(2), for the words “ the Rent Acts ” there shall be substituted the words “ the Rent Act 1968 ”.

The Housing (Financial Provisions) Act 1958 (6 & 7 Eliz. 2. c. 42).

In section 46, in subsection (1), as it applies to conditions imposed under that section after 7th December 1965, for paragraph (b) there shall be substituted the following paragraph:—

(b) if let, is let at a rent which does not exceed such rent as the council may from time to time determine as being in its opinion the rent which it would have been appropriate for the council to charge if the house had been provided by the council;

and in that paragraph, as it applies to conditions imposed before 8th December 1965, for the words “ section twenty of the Rent Act 1957 ” there shall be substituted the words “ section 110 of or Schedule 13 to the Rent Act 1968 ”.

In Schedule 4, in paragraph 4, for the words “ section twenty of the Rent Act 1957 ” there shall be substituted the words “ section 110 of or Schedule 13 to the Rent Act 1968 ”.

The Tribunals and Inquiries Act 1958 (6 & 7 Eliz. 2. c. 66).

In Schedule 1, in the entry beginning “ Rents ”, for the words “ under section one of the Furnished Houses (Rent Control) Act 1946 ” there shall be substituted the words “ in accordance with section 69 of the Rent Act 1968 ”.

The County Courts Act 1959 (7 & 8 Eliz. 2. c. 22).

In section 94, in subsection (1), for paragraph (b) there shall be substituted the following paragraph:—

(b) proceedings arising under Part III of the Rent Act 1965 or under any provision of the Rent Act 1968 other than a provision contained in Part VI or Part VII thereof.

In section 109(4), for the words from “ section three ” to “ subsequent enactments ” there shall be substituted the words “ section 10 of the Rent Act 1968, as it applies to

*Enactment**Amendment*

SCH. 15

The County Courts Act 1959 (7 & 8 Eliz. 2. c. 22)—cont.

Cases 1 to 8 in Schedule 3 to that Act or, of that section as extended or applied by any other enactment”.

In section 147(2), for the words “ subsection (4) of section five of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 ” there shall be substituted the words “ paragraph 14 of Schedule 16 to the Rent Act 1968 ”.

The House Purchase and Housing Act 1959 (7 & 8 Eliz. 2. c. 33).

In section 12, in subsection (1), for the words “ the commencement of this Act ” there shall be substituted the words “ 15th August 1964 ”, for the words “ section twenty of the Rent Act 1957 ” there shall be substituted the words “ section 56(2) of the Housing Act 1964 ” and for the words “ the Rent Act 1957 ” in the next place where they occur, there shall be substituted the words “ Part V of the Rent Act 1968 ”; in subsection (2), for the words from “ section twenty ” to the end of the subsection there shall be substituted the words “ section 56(2) ”; and in subsection (5), for the words “ section twenty ” there shall be substituted the words “ section 56(2) ”.

In section 29(1), in the definition of “ controlled tenancy ”, for the words “ the Rent Act 1957 ” there shall be substituted the words “ the Rent Act 1968 ”.

The Town and Country Planning Act 1962 (10 & 11 Eliz. 2. c. 38).

In section 84(3), for the words “ the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 ” there shall be substituted the words “ the Rent Act 1968 ”.

The Landlord and Tenant Act 1962 (10 & 11 Eliz. 2. c. 50).

In section 2(1), in paragraph (b), for the words “ the Furnished Houses (Rent Control) Act 1946 ” there shall be substituted the words “ Part VI of the Rent Act 1968 ”; in paragraph (c), for the words from “ to which ” to “ apply ” there shall be substituted the words “ let on or subject to a protected or statutory tenancy, within the meaning of the Rent Act 1968 ”; and for the words “ such a dwelling-house ” there shall be substituted the words “ let on or subject to such a protected or statutory tenancy ”.

For section 5, there shall be substituted the following section:—

5.—(1) Section 107 of the Rent Act 1968 (which relates to the powers of local authorities with respect to the publishing

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SCH. 15

*Enactment**Amendment*

The Landlord and
Tenant Act 1962
(10 & 11 Eliz. 2.
c. 50)—*cont.*

of information) shall have effect as if this Act were included among the provisions of that Act specified in subsection (3) of that section.

(2) Proceedings for an offence under this Act may be instituted by any local authority to which the said section 107 applies.

The Housing Act 1964
(1964 c. 56).

In section 44(2)(a), for the words from "tenant (as defined" to "entitled to a tenancy" there shall be substituted the words "statutory tenant within the meaning of the Rent Act 1968".

In section 56, in subsection (2), for paragraph (b) there shall be substituted the following paragraph:—

(b) which is not prevented from being a protected tenancy by reason only of subsection (2)(g) or subsection (5) of section 5 of the Rent Act 1968 (tenancies where landlord is housing trust or housing association),

and for the words "section 20 of the Rent Act 1957" there shall be substituted the words "section 110 of or Schedule 13 to the Rent Act 1968"; in subsection (3) of that section, for the words "Schedule 2 to the Rent Act 1957" there shall be substituted the words "Schedule 4 to the Rent Act 1968"; in subsection (4) of that section, for the words from the beginning to "1957" there shall be substituted the words "Sections 53, 54, 55, 56 (except subsection (5)), 57(1), 59, 67(4) and 105 of the Rent Act 1968", for the words "under that Act" in each place where they occur, there shall be substituted the words "under Part V of that Act", in paragraph (a) of that subsection for the words "sections 3 and 4" there shall be substituted the words "sections 54 and 55" and in paragraph (b) of that subsection, for the words "section 5" there shall be substituted the words "section 56(1)" and for the words "the commencement of that Act" there shall be substituted the words "5th July 1957"; for subsection (7) of that section there shall be substituted the following subsection:—

(7) Expressions used in this section have the same meanings as in Part V of the Rent Act 1968;

Enactment

The Housing Act 1964
(1964 c. 56)—*cont.*

Amendment

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in subsection (8) of that section, the words “and accordingly” and paragraphs (a) and (b) shall be omitted; and in subsection (9) of that section, for the words “section 20 of the Rent Act 1957” there shall be substituted the words “Schedule 13 to the Rent Act 1968”.

In section 74(2), for the words “the Rent Acts” there shall be substituted the words “the Rent Act 1968”.

In section 75(3), for the words from the beginning to “Rent Acts)” there shall be substituted the words “Section 5 of the Rent Act 1968 (which excludes lettings by local authorities from being protected tenancies within the meaning of that Act)”, for the words from “a tenancy” to “continuing to apply” there shall be substituted the words “a protected or statutory tenancy, within the meaning of the Rent Act 1968, nothing in this Part of this Act shall prevent the continuance of that protected or statutory tenancy nor affect the continued operation of that Act in relation to that protected or statutory tenancy”.

In section 81(3), for the words “section 1 of the Furnished Houses (Rent Control) Act 1946” there shall be substituted the words “section 69 of the Rent Act 1968”.

In Schedule 2, in paragraph 4, for the words “section 5 of the Rent Act 1957” there shall be substituted the words “section 56(1) of the Rent Act 1968”.

In Schedule 4, for the words “s. 11(2) of the Rent Act 1957” in the cross-heading preceding paragraph 2, and for the words in that paragraph from “section 11(2)” to “Rent Acts)”, there shall be substituted the words “paragraph 1(d) of Schedule 2 to the Rent Act 1968”.

The New Towns Act
1965 (1965 c. 59).

In section 22(3), for the words “the Rent and Mortgage Interest Restrictions Acts 1920 to 1939” there shall be substituted the words “the Rent Act 1968”.

The Rent Act 1965
(1965 c. 75).

In section 32, in subsection (1), after the words “which is not a” there shall be inserted the word “statutorily”; and at the end of subsection (4) there shall be added the words “within the meaning of the Rent Act 1968”.

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*Enactment**Amendment*

The Rent Act 1965
(1965 c. 75)—*cont.*

In section 34, for the words "protected tenancy" there shall be substituted the words "statutorily protected tenancy" and in paragraph (a) of that section for the words from the beginning to "or" there shall be substituted the words "a protected tenancy within the meaning of the Rent Act 1968 or a tenancy to which".

The Matrimonial
Homes Act 1967
(1967 c. 75).

In section 1(5) for the words from "the Rent Acts" to "1949" there shall be substituted the words "the Rent Act 1968 (other than Part VI thereof)".

In section 7, in subsections (1) and (2), for the words "tenancy to which the Rent Acts apply", in each place where they occur, there shall be substituted the words "protected tenancy"; in subsection (3) of that section, for the words from "the Rent Acts" to "1965" there shall be substituted the words "paragraphs 1 to 3 or, as the case may be, paragraphs 5 to 7 of Schedule 1 to the Rent Act 1968", and for subsection (8) of that section there shall be substituted the following subsection:—

(8) In this section the expressions "landlord", "protected tenancy", "statutory tenancy" and "tenancy" have the same meaning as in the Rent Act 1968.

In section 8 of that Act, in subsection (3), for the words from the beginning to "the Acts or" there shall be substituted the words "References in this Act to any enactment are references to that".

The Leasehold Reform
Act 1967 (1967 c.
88).

In section 1(4), for the words "section 43(3) of the Rent Act 1965" there shall be substituted the words "section 6(3) of the Rent Act 1968".

In section 4(1)(a), for the words "section 43(3) of the Rent Act 1965" there shall be substituted the words "section 6(3) of the Rent Act 1968".

In section 16(1)(d), for the words "the Rent Acts" there shall be substituted the words "Part II of the Rent Act 1968 or any enactment applying or extending that Part of that Act".

In section 37(6), for the words "Sections 43(1), (2) and (4) of the Rent Act 1965" there shall be substituted the words "Sections 6(1), (2) and (4) of the Rent Act 1968".

*Enactment**Amendment*

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The Leasehold Reform Act 1967 (1967 c. 88)—cont.

In section 39, in subsections (1)(b)(ii) and (2), for the words "Rent Act 1965" there shall be substituted the words "Rent Act 1968".

In Schedule 2, in paragraph 3, in sub-paragraph (2), for the words from "section 15(3)" to "enactment" there shall be substituted the words "subsection (2) of section 18 of the Rent Act 1968, or any enactment (including subsection (3) of that section)" and in sub-paragraph (3) of that paragraph, for the words "the Rent Acts" there shall be substituted the words "Part II of the Rent Act 1968 or any enactment applying or extending that Part of that Act".

In Schedule 5, in paragraph 3, for the words "Rent Act 1965" in each place where they occur there shall be substituted the words "Rent Act 1968" and in sub-paragraph (2) of that paragraph for the words "section 3(3)(a)" there shall be substituted the words "section 20(3)(a)", for the words "section 5" there shall be substituted the words "section 22(1)" and for the words "section 6 (which provides)" there shall be substituted the words "sections 23 to 25 (which provide)"; in paragraph 4 of that Schedule, in sub-paragraphs (1) and (2), for the words "Rent Act 1965" there shall be substituted the words "Rent Act 1968" and for the words, in sub-paragraph (2), "paragraph 13 of Schedule 3" there shall be substituted the words "section 48", in sub-paragraph (3) of that paragraph, for the words "section 7(b) of the Rent Act 1965" there shall be substituted the words "section 22(2)(b) of the Rent Act 1968", in sub-paragraph (4) of that paragraph, for the words "section 27(1) of the Rent Act 1965" there shall be substituted the words "section 46(1) of the Rent Act 1968" and in sub-paragraph (5) of that paragraph for the words "Rent Act 1965" there shall be substituted the words "Rent Act 1968"; in paragraph 6(5) of that Schedule, for the words "Rent Act 1965" there shall be substituted the words "Rent Act 1968"; in paragraph 7(1), in sub-paragraph (b), for the words "Rent Act 1965" there shall be substituted the words "Rent Act 1968"; in paragraph 8 of that Schedule, in sub-paragraphs (2) and (3), for the words

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*Enactment**Amendment*

The Leasehold Reform Act 1967 (1967 c. 88)—*cont.*

“ section 11 of the Rent Act 1965 ”, in each place where they occur, there shall be substituted the words “ section 8 of the Rent Act 1968 ” and for the words, in sub-paragraph (3), “ section 11(5) and (6) ” there shall be substituted the words “ subsections (2) and (4) of section 27 of that Act ” and in sub-paragraph (4) of that paragraph for the words “ section 11(7) of the Rent Act 1965 ” there shall be substituted the words “ section 9(4) of the Rent Act 1968 ”; and in paragraph 10 of that Schedule, for sub-paragraph (1) there shall be substituted the following sub-paragraph:—

(1) Section 50(2) of the Rent Act 1968 (which confers power by regulations to modify certain provisions of Part IV of that Act) shall apply also to this Schedule in so far as it affects section 44, section 48 or section 49 of, or Schedule 6 to, that Act;

and in sub-paragraph (2) of that paragraph for the words “ Rent Act 1965 ” there shall be substituted the words “ Rent Act 1968 ”, for the words “ section 49 ” there shall be substituted the words “ subsections (1) to (4) of section 115 ” and for the words “ contained in that Act ” there shall be substituted the words “ specified in subsection (2) of the said section 115 ”.

Section 117(3).

SCHEDULE 16

SAVINGS AND TRANSITORY PROVISIONS

General transitional provisions

1. In so far as any regulation, order, scheme, agreement, dissent, election, reference, representation, appointment or apportionment made, notice served, certificate issued, statement supplied, undertaking or direction given, rent registered or other thing done, under or by virtue of an enactment repealed by this Act could have been made, served, issued, supplied, given, registered or done under or by virtue of the corresponding provision of this Act, it shall have effect as if made, served, issued, supplied, given, registered or done under or by virtue of that corresponding provision.

2. Subject to the following provisions of this Schedule, any document made, served or issued before the passing of this Act or at any time thereafter (whether before or after the commencement of this Act) and containing a reference to an enactment repealed by this Act shall, except in so far as a contrary intention appears, be

construed as referring, or as the context requires, as including a reference, to the corresponding provision of this Act. SCH. 16

3. Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

4. A conviction of an offence under an enactment repealed by this Act shall be treated for the purposes of this Act as a conviction of an offence under the corresponding provision of this Act.

5. Subject to the provisions of Schedule 15 to this Act, any reference in any document or enactment to a dwelling-house to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1939, or any of those Acts, apply shall be construed, except in so far as the context otherwise requires, as a reference to a dwelling-house let on or subject to a protected or statutory tenancy within the meaning of this Act.

Existing statutory tenants

6. If, immediately before the commencement of this Act, a person (in this and the next following paragraph referred to as the "existing statutory tenant") was a statutory tenant of a dwelling-house by virtue of the old Rent Acts or by virtue of section 13 of the Rent Act 1965, that person shall, immediately after the commencement of this Act, be a statutory tenant of the dwelling-house for the purposes of this Act. 1965 c. 75.

7.—(1) If, immediately before the existing statutory tenant became a statutory tenant, he was a tenant of the dwelling-house under a tenancy then, for the purposes of this Act, he shall be the statutory tenant by virtue of his previous protected tenancy.

(2) If the existing statutory tenant became a statutory tenant on the death of a person who was himself a tenant or statutory tenant of the dwelling-house then, for the purposes of this Act, the existing statutory tenant shall be a statutory tenant by succession; and, unless he became a statutory tenant by virtue of section 13 of the Rent Act 1965, he shall be deemed to be the first successor within the meaning of Schedule 1 to this Act.

(3) If the existing statutory tenant became a statutory tenant by virtue of an exchange under section 17 of the Rent Act 1957 then, for the purposes of this Act, he shall be deemed to be the statutory tenant by virtue of his previous protected tenancy or a statutory tenant by succession according as, at the date of exchange, the provisions of the old Rent Acts referred to in subsection (1) of that section had or had not had effect or, as the case may be, were capable of having effect again by virtue of an agreement making the provision referred to in subsection (3) of that section. 1957 c. 25.

(4) If, by virtue of sub-paragraph (3) above, the existing statutory tenant is for the purposes of this Act a statutory tenant by succession, he shall be deemed to be the first successor, within the meaning of

SCH. 16 Schedule 1 to this Act, if, and only if, the person who was the statutory tenant immediately before the date of exchange was a statutory tenant by virtue of the old Rent Acts and not by virtue of section 13 of the Rent Act 1965.

1965 c. 75.

(5) Without prejudice to the case where, by virtue of sub-paragraph (3) or sub-paragraph (4) above, the existing statutory tenant is deemed to be a statutory tenant by succession but is not deemed to be the first successor, within the meaning of Schedule 1 to this Act, paragraphs 5 to 7 of that Schedule shall not apply where the existing statutory tenant, or the person on whose death he became a statutory tenant, became a statutory tenant by virtue of an exchange under section 17 of the Rent Act 1957.

1957 c. 25.

8.—(1) A person who, at any time before the commencement of this Act, became a statutory tenant of a dwelling-house by virtue of either of the enactments specified in sub-paragraph (2) below (and not by way of succession to a previous statutory tenant) shall be treated for the purposes of this Act as having become the statutory tenant of that dwelling-house on the expiry of a protected tenancy thereof.

(2) The enactments referred to in sub-paragraph (1) above are—

(a) section 12(10) of the Act of 1920 (under which workmen housed in certain dwelling-houses taken over by the Government during the 1914-18 war were to be treated as tenants of the landlords of those houses); and

(b) section 4 of the Requisitioned Houses and Housing (Amendment) Act 1955 (under which certain requisitioned dwelling-houses were returned to their owners on condition that the owners accepted the existing licensees as statutory tenants).

1955 c. 24.

(3) A person who, on or after the commencement of the Rent Act 1965, retained possession of a dwelling-house by virtue of section 20 of that Act (which made transitional provisions in relation to tenancies which expired before the commencement of that Act) shall be deemed to have done so under a statutory tenancy arising on the termination of a tenancy which was a regulated tenancy, and the terms as to rent and otherwise of that tenancy shall be deemed to have been the same, subject to any variation specified by the court, as those of the tenancy mentioned in subsection (1) of that section (that is to say, the tenancy which ended before the commencement of the Rent Act 1965 but which would have been a regulated tenancy if that Act had then been in force).

9.—(1) Notwithstanding anything in Schedule 2 to this Act a statutory tenancy which is subsisting at the commencement of this Act by virtue of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 and which, immediately before the commencement of this Act, is a controlled tenancy shall continue as a controlled tenancy after that commencement.

1951 c. 65.

(2) A statutory tenancy subsisting at the commencement of this Act under section 4 of the Requisitioned Houses and Housing (Amendment) Act 1955 shall be treated, for the purposes of this Act, SCH. 16
1955 c. 24.

(a) as a regulated tenancy if, by virtue of section 10 of the Rent Act 1965, it fell to be treated as a regulated tenancy after 31st March 1966; and 1965 c. 75.

(b) in any other case, as a controlled tenancy.

Miscellaneous transitory provisions

10. Notwithstanding anything in Part I of this Act, a tenancy which came to an end before 8th December 1965 and which, immediately before it came to an end, was not a controlled tenancy shall not be treated for the purposes of this Act as a protected tenancy (nor, accordingly, as a regulated tenancy); but where, after such a tenancy ended, a statutory tenancy was deemed to arise by virtue of section 20 of the Rent Act 1965 then, without prejudice to section 30(3) of this Act, that statutory tenancy is a regulated tenancy for the purposes of this Act.

11. Where, before the commencement of this Act, a landlord has obtained an order for possession of a dwelling-house on either of the grounds specified in paragraph (g) or paragraph (h) of Schedule 1 to the Act of 1933 (which correspond to Cases 7 and 8 in Schedule 3 to this Act) and, after the commencement of this Act, it is made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the repeal by this Act of subsections (6) and (7) of section 5 of the Act of 1920 shall not prevent the court from exercising any power to order the payment of compensation by the landlord to the former tenant which it could have exercised if this Act had not been passed.

12. Any notice given to a tenant before the commencement of this Act under section 14, section 15 or section 16 of the Rent Act 1965 stating that possession may be recovered under that section shall be deemed to be a notice stating that possession may be recovered under the corresponding Case in Part II of Schedule 3 to this Act; and any notice given to a tenant before the commencement of this Act stating that possession may be recovered under section 38 of the Agriculture Act 1967 shall be deemed to be a notice stating that possession may be recovered under Case 13 in Schedule 3 to this Act. 1967 c. 22.

13.—(1) In relation to any time before 1st January 1960, paragraph (a) of section 58(1) of this Act shall have effect as if it included a reference to section 150 of the Public Health Act 1875 and to the Private Street Works Act 1892. 1875 c. 55.
1892 c. 57.

(2) In relation to any time before 1st September 1957, any reference in paragraph 5(3)(b) of Schedule 9 to this Act to section 10 of the Housing Act 1957 or to subsection (3) of that section includes a reference to section 10 of the Housing Act 1936 or, as the case may be, subsection (3) of that section. 1957 c. 56
1936 c. 51.

(3) In relation to any time before 1st April 1965, the circumstances specified in paragraph 5(3)(d) of Schedule 9 to this Act

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1936 c. 50. include the case where the landlord has previously been convicted of an offence under paragraph 12 of Schedule 5 to the Public Health (London) Act 1936 of failing to comply with an abatement order or contravening a prohibition order or closing order.

1965 c. 75. 14.—(1) Until the day appointed under section 35(5) of the Rent Act 1965, the provision in sub-paragraph (2) below shall have effect (in place of section 5(4) of the Act of 1920).

1838 c. 74. (2) Notwithstanding anything in section 1 of the Small Tenements Recovery Act 1838, every warrant to enter and give possession of any dwelling-house let on a protected tenancy or subject to a statutory tenancy shall remain in force for three months from the date of the issue of the warrant and for such further period or periods, if any, as the court shall from time to time, whether before or after the expiry of those three months, direct.

1889 c. 63. (3) From the day appointed under section 35(5) of the Rent Act 1965, this paragraph shall cease to have effect and section 38(2) of the Interpretation Act 1889 shall apply as though this paragraph were repealed by an Act other than this Act.

Transitional provisions from Rent Act 1957

1957 c. 25. 15. If the rent recoverable under a controlled tenancy for any rental period beginning immediately before the commencement of this Act was, by virtue of section 1(4) of the Rent Act 1957, the same as the rent recoverable for the rental period comprising the commencement of that Act then, after the commencement of this Act, that rent shall remain the rent recoverable under that tenancy for any rental period for which it is neither increased nor reduced under Part V of this Act (but without prejudice to paragraph 1 of this Schedule).

1954 c. 53. 16. If, immediately before the commencement of this Act, an agreement or determination of a tribunal made or given for the purposes of paragraph (b) of section 24(3) of the Housing Repairs and Rents Act 1954 was deemed, by virtue of paragraph 1 of Schedule 7 to the Rent Act 1957, to be an agreement or determination made under paragraph (b) of section 1(1) of the Rent Act 1957 then, after the commencement of this Act, that agreement or determination shall, until an agreement or determination is made as is mentioned in paragraph (c) of section 52(1) of this Act, be deemed to be an agreement or determination made as mentioned in the said paragraph (c).

17.—(1) If, immediately before the commencement of this Act, the rent limit under a controlled tenancy of a dwelling was increased, by virtue of paragraph 2 of Schedule 7 to the Rent Act 1957, on account of an improvement, or a notice of increase relating to an improvement, completed before the commencement of that Act, the like increase shall apply after the commencement of this Act to the rent limit under that controlled tenancy.

(2) In sub-paragraph (1) above, “the rent limit”, in relation to any time before the commencement of this Act, has the same meaning as in the Rent Act 1957, and in relation to any time after that commencement, has the same meaning as in Part V of this Act.

18.—(1) If, immediately before the commencement of this Act a certificate of a local authority under section 26(1) of the Housing Repairs and Rents Act 1954 or a certificate of a sanitary authority having effect as if it were a certificate under Part II of that Act had effect, by virtue of paragraph 3 of Schedule 7 to the Rent Act 1957, as a certificate of disrepair under that Act, then, after the commencement of this Act, the certificate shall have effect, to the like extent as before that commencement, as if it were a certificate of disrepair under Schedule 9 to this Act. SCH. 16
1954 c. 53.
1957 c. 25.

(2) Where any such certificate ceases to have effect (whether by virtue of an order of the court or in consequence of being cancelled by the local authority), sections 52 and 53 of this Act shall have effect, in relation to any rental period beginning after the date as from which the certificate ceases to have effect as if it had ceased to have effect immediately before the basic rental period (within the meaning of Part V of this Act).

19. Where any increase in the rent recoverable under a controlled tenancy current on 6th July 1957 took effect before that date but after the beginning of the basic rental period (within the meaning of Part V of this Act), section 52 of this Act shall have effect as if for references to the rent recoverable for the basic rental period there were substituted references to the rent which would have been recoverable for that period if the increase had taken effect before the beginning thereof.

Savings

20.—(1) The repeal by this Act of the Landlord and Tenant (Rent Control) Act 1949 shall not affect the continued operation—

- (a) of section 2(5) of that Act in so far as it entitles any person to recover the whole or any part of any premium lawfully required or received before the commencement of this Act, and of the proviso to that section (which renders voidable certain agreements providing for the payment of premiums) in relation to any agreement made after 25th March 1949 and before 2nd June 1949 which, immediately before the commencement of this Act, was voidable by any person by virtue of that proviso; and
- (b) of Schedule 1 to that Act (as amended by the Rent Act 1957 and the Rent Act 1965) in relation to any premium lawfully required and paid before 2nd June 1949 on the grant, continuance or renewal of a controlled tenancy. 1965 c. 75.

(2) If, immediately before the commencement of this Act, sections 2 and 12 of the Landlord and Tenant (Rent Control) Act 1949 did not, by virtue of the Crown Lessees (Protection of Sub-Tenants) Act 1952, affect the payment of any premium or other sum required under an agreement made before 8th February 1952, then— 1952 c. 40.

- (a) sections 85 to 87 of this Act shall not affect the payment under that agreement of that premium or other sum after the commencement of this Act; and
- (b) nothing in this Act shall affect the operation (or continued operation) of Schedule 1 to the said Act of 1949 (as amended by the said Act of 1952) in relation to a premium lawfully required and paid under that agreement.

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1954 c. 53.
1957 c. 25.

21. Nothing in this Act shall affect any power of the Minister under section 33(8) of the Housing Repairs and Rents Act 1954, as extended by paragraph 26(2) of Schedule 6 to the Rent Act 1957, to determine, on the application of either party, that any arrangements between housing authorities and local authorities entered into before the commencement of the Rent Act 1957 shall have effect subject to such variation as he may specify.

22.—(1) Subject to the following provisions of this paragraph nothing in this Act shall affect the continued operation of Schedule 4 to the Rent Act 1957 (which contains transitional provisions in relation to dwelling-houses which ceased to be controlled at the commencement of that Act) in relation to—

- (a) a dwelling-house of which any person was entitled, immediately before the commencement of this Act, to retain possession by virtue of paragraph 2 of that Schedule and not by virtue of a tenancy; and
- (b) a dwelling-house which, immediately before the commencement of this Act, was let on a tenancy which is not a regulated tenancy by reason only that the rateable value of the dwelling-house is in excess of the relevant limit in section 1(1) of the Rent Act 1965 but which could be brought to an end by a notice served under paragraph 2(2) of that Schedule.

1965 c. 75.

(2) If a notice under paragraph 2(2) of Schedule 4 to the Rent Act 1957 is served on a person who retains possession, as mentioned in sub-paragraph (1)(a) above, of a dwelling-house which is within the limits of rateable value in section 1(1)(a) of this Act, then—

- (a) from the date specified in that notice that person shall be entitled to retain possession of the dwelling-house as statutory tenant under a statutory tenancy arising on the termination of a tenancy which was a regulated tenancy; and
 - (b) the terms as to rent and otherwise of the tenancy referred to in paragraph (a) above shall be deemed to have been the same, subject to any variations the court may specify, as those of the tenancy under which he or any other person was last entitled to possession of the dwelling-house.
- (3) Sub-paragraph (2) above applies to notices—
- (a) served at or after the commencement of this Act; or
 - (b) served before the commencement of this Act but specifying a date at or after the commencement of this Act.

(4) The statutory tenancy referred to in sub-paragraph (2)(a) above shall be disregarded for the purposes of section 20(3)(a) of this Act in determining the contractual rent limit under any subsequent regulated tenancy of the dwelling-house in question.

23. Nothing in this Act shall affect the continued operation of paragraph 7 of Schedule 4 to the Rent Act 1957 (which, in certain cases, affects the amount of rent recoverable for periods after decontrol under tenancies to which paragraph 2(1) of that Schedule

does not extend) or of paragraph 11 of that Schedule (which provides that certain statutory tenancies in existence before 6th July 1957 are to be treated as tenancies to which Part II of the Landlord and Tenant Act 1954 applies). SCH. 16
1954 c. 56.

24. Nothing in Schedule 15 to this Act shall affect the operation of section 12 of the House Purchase and Housing Act 1959 in relation to any condition imposed on an application made before 16th August 1964. 1959 c. 33.

25. Nothing in this Act shall affect the continued operation of section 20(1)(b) of the Rent Act 1965 (under which the court may rescind or vary orders for possession made, but not executed, before the commencement of that Act where the orders relate to dwelling-houses formerly let on tenancies which would have been regulated tenancies if the Rent Act 1965 had then been in force). 1965 c. 75.

26.—(1) Except as provided by Schedule 15 to this Act, nothing in this Act shall affect the operation of paragraphs 5 to 8 of Schedule 5 to the Leasehold Reform Act 1967 (which contain transitional provisions in relation to certain tenancies and statutory tenancies to which Part I of the Landlord and Tenant Act 1954 applied before the coming into operation of section 39 of the said Act of 1967). 1967 c. 88.

(2) If and so long as section 39 of the Leasehold Reform Act 1967 does not have effect (by virtue of any provision of Schedule 5 to that Act) in relation to a tenancy or a statutory tenancy arising (whether before or after the commencement of this Act) by virtue of Part I of the Landlord and Tenant Act 1954, nothing in this Act shall affect the operation of the said Act of 1954 in relation to that tenancy or statutory tenancy.

General

27.—(1) In relation to any time before the commencement of this Act, any reference in this Schedule to a controlled tenancy is a reference to a controlled tenancy within the meaning of the Rent Act 1957 and any reference therein to a regulated tenancy is a reference to a regulated tenancy within the meaning of the Rent Act 1965. 1957 c. 25.

(2) In this Schedule,—

“the Act of 1920” means the Increase of Rent and Mortgage Interest (Restrictions) Act 1920; 1920 c. 17.

“the Act of 1933” means the Rent and Mortgage Interest Restrictions (Amendment) Act 1933; 1933 c. 32.

“the old Rent Acts” means the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 or any of them.

Section 117(5).

SCHEDULE 17

ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|--|--|--|
| 10 & 11 Geo. 5. c. 17. | The Increase of Rent and Mortgage Interest (Restrictions) Act 1920. | The whole Act. |
| 13 & 14 Geo. 5. c. 32. | The Rent and Mortgage Interest Restrictions Act 1923. | The whole Act. |
| 14 & 15 Geo. 5. c. 18. | The Prevention of Eviction Act 1924. | The whole Act. |
| 15 & 16 Geo. 5. c. 32. | The Rent and Mortgage Interest (Restrictions Continuation) Act 1925. | The whole Act. |
| 23 & 24 Geo. 5. c. 32. | The Rent and Mortgage Interest Restrictions (Amendment) Act 1933. | The whole Act. |
| 25 & 26 Geo. 5. c. 13. | The Increase of Rent and Mortgage Interest (Restrictions) Act 1935. | The whole Act. |
| 1 & 2 Geo. 6. c. 26. | The Increase of Rent and Mortgage Interest (Restrictions) Act 1938. | The whole Act. |
| 2 & 3 Geo. 6. c. 71. | The Rent and Mortgage Interest Restrictions Act 1939. | The whole Act. |
| 9 & 10 Geo. 6. c. 34. | The Furnished Houses (Rent Control) Act 1946. | The whole Act. |
| 11 & 12 Geo. 6. c. 63. | The Agricultural Holdings Act 1948. | In Schedule 7, paragraph 1. |
| 12 & 13 Geo. 6. c. 40. | The Landlord and Tenant (Rent Control) Act 1949. | The whole Act. |
| 14 & 15 Geo. 6. c. 65. | The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. | In section 19, subsections (4) and (6). In section 64(1), the definition beginning "Rent Restrictions Acts". |
| 15 & 16 Geo. 6 and 1 Eliz. 2. c. 40. | The Crown Lessees (Protection of Sub-Tenants) Act 1952. | The whole Act. |
| 1 & 2 Eliz. 2. c. 47. | The Emergency Laws (Miscellaneous Provisions) Act 1953. | In Schedule 1, paragraph 4. |
| 2 & 3 Eliz. 2. c. 53. | The Housing Repairs and Rents Act 1954. | Part II. Schedule 4. |
| 2 & 3 Eliz. 2. c. 56. | The Landlord and Tenant Act 1954. | Section 15. |
| 3 & 4 Eliz. 2. c. 24. | The Requisitioned Houses and Housing (Amendment) Act 1955. | In section 4, subsection (4). Section 5. In section 18(1), the definition beginning "the Rent Acts" and the definition of "statutory successor". |

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| Chapter | Short Title | Extent of Repeal |
|---------------------------|--|--|
| 5 & 6 Eliz. 2. c. 25. | The Rent Act 1957. | Sections 1 to 15. Sections 17 to 26. In section 27, subsections (2) to (4). Schedules 1 to 8. |
| 5 & 6 Eliz. 2. c. 56. | The Housing Act 1957. | Section 84. In section 189(1) the definition of "the Rent Acts". In Schedule 10, the entries relating to the Housing Repairs and Rents Act 1954 and the Rent Act 1957. |
| 6 & 7 Eliz. 2. c. 42. | The Housing (Financial Provisions) Act 1958. | Section 40. |
| 7 & 8 Eliz. 2. c. 22. | The County Courts Act 1959. | In section 109, in subsection (4), the words from "or if possession" to the end of the subsection. |
| 7 & 8 Eliz. 2. c. 33. | The House Purchase and Housing Act 1959. | Section 27. |
| 7 & 8 Eliz. 2. c. 62. | The New Towns Act 1959. | In section 4, in subsection (5), the words from the beginning to "and accordingly", and subsection (6). |
| 7 & 8 Eliz. 2. c. 64. | The Landlord and Tenant (Furniture and Fittings) Act 1959. | The whole Act. |
| 8 & 9 Eliz. 2. c. 58. | The Charities Act 1960. | In Schedule 6, the entry relating to the Housing Repairs and Rents Act 1954. |
| 9 & 10 Eliz. 2. c. 65. | The Housing Act 1961. | Section 29. |
| 1963 c. 33. | The London Government Act 1963. | In Schedule 17, paragraphs 16 and 19. |
| 1964 c. 56. | The Housing Act 1964. | Section 3(9). Section 35. |
| 1964 c. 97. | The Protection from Eviction Act 1964. | Section 5. |
| 1965 c. 75. | The Rent Act 1965. | Parts I, II and IV. Sections 43 and 46. In section 47, subsection (1), except the definitions of "agricultural holding" and "the Minister", and subsection (2). Section 50. In section 52, subsection (2). In section 53, subsections (2) and (3). Schedules 1 to 5. Schedule 6, except paragraphs 1, 2 and 10. In Schedule 7, Part I and the entry in Part II relating to the Increase of Rent and Mortgage Interest (Restrictions) Act 1920. |

SCH. 17

| Chapter | Short Title | Extent of Repeal |
|----------------------------|---|---|
| 1967 c. 22. 1967 c. 88. | The Agriculture Act 1967. The Leasehold Reform Act 1967. | Section 38. In section 37(1), paragraph (e). In section 39(1), paragraphs (a), (b)(i) and (c). In Schedule 5, paragraph 9. |



Commonwealth Telecommunications Act 1968

1968 CHAPTER 24

An Act to make provision as to the legal capacity of the Commonwealth Telecommunications Bureau and for the repeal of the provisions relating to the Commonwealth Telecommunications Board. [8th May 1968]

BE IT ENACTED by the Queen'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 Commonwealth Telecommunications Bureau to be established in pursuance of the recommendations of the Commonwealth Telecommunications Conference held in London in March 1966 shall have the legal capacity of a body corporate. Legal capacity of Commonwealth Telecommunications Bureau.
2. As from such date as Her Majesty may by Order in Council appoint, not being earlier than the date of the termination of the Commonwealth Telegraphs Agreements made respectively on 11th May 1948 and on 25th July 1963, the following provisions are hereby repealed, namely—
 - (a) in the Commonwealth Telegraphs Act 1949, sections 1 and 2 and Schedule 1 (which relate to the Commonwealth Telecommunications Board established in pursuance of those Agreements); Repeal of provisions relating to Commonwealth Telecommunications Board. 1949 c. 39.
 - (b) in Part II of Schedule 1 to the House of Commons Disqualification Act 1957, and in the Part substituted therefor by Schedule 3 to that Act, the entry "The Commonwealth Telecommunications Board". 1957 c. 20.
3. This Act may be cited as the Commonwealth Telecommunications Act 1968. Short title.



Local Authorities' Mutual Investment Trust Act 1968

1968 CHAPTER 25

An Act to extend the scope of the powers of investment made collectively by local authorities through the Local Authorities' Mutual Investment Trust.

[30th May 1968]

BE IT ENACTED by the Queen'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:—

Extension of
Company's
power to
invest.

1.—(1) The powers of investment exercisable by the Company in relation to the wider-range trust fund shall include power to invest—

(a) in any securities issued by or guaranteed by any government or public authority in or issued by any body corporate incorporated in any of the territories which on the 30th day of November 1967 were scheduled territories within the meaning of the Exchange Control Act 1947 (other than the United Kingdom) and any other territory which after the said date is added to Schedule 1 of the said Act by virtue of an Order made by the Treasury under that Act or in Canada or the United States of America or in any of the following countries, namely, Austria, Belgium, Denmark, France, Holland, Italy, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland and Western Germany;

(b) in the acquisition, development or management of land situate in the United Kingdom or any interest in such land.

(2) The restrictions contained in paragraphs 1, 2 and 3 of Part IV of Schedule 1 to the Act of 1961 shall not apply to the securities in which the Company is authorised to invest in relation to the wider-range trust fund by virtue of paragraph 1 of Part III of the said Schedule 1 or by virtue of subsection (1) of this section:

1947 c. 14.

Save that the securities in which the Company is authorised to invest by virtue of paragraph 1 of Part III of the said Schedule 1 shall not include securities the price of which is not quoted on a recognised stock exchange within the meaning of the Prevention of Fraud (Investments) Act 1958 or the Belfast Stock Exchange. 1958 c. 45.

(3) For the purposes of the foregoing provisions of this section an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom or in any of the territories or countries referred to in subsection (1) of this section having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of such securities or of such land or interest in land as are specified in that subsection shall be regarded as an investment in the securities in question or in such land or interest in land.

2. In this Act—

Interpretation.

“ the Act of 1961 ” means the Trustee Investments Act 1961; 1961 c. 62.

“ the Company ” means the Local Authorities' Mutual Investment Trust;

“ participation certificate ” means any document conferring upon the holder the right to participate in (or constituting evidence of the right of the holder to participate in) the profits or income arising from the acquisition, holding, management or disposal of a particular investment specified or described in the document;

“ the scheme ” means the scheme relating to the powers of investment of the Company submitted to the Treasury pursuant to section 11 of the Act of 1961 by the associations of local authorities mentioned in the Schedule to this Act and approved by the Treasury as from time to time modified or supplemented;

“ securities ” has the meaning assigned thereto by paragraph 4 of Part IV of Schedule 1 to the Act of 1961;

“ unit trust scheme ” has the meaning assigned thereto by section 26(1) of the Prevention of Fraud (Investments) Act 1958;

“ the wider-range trust fund ” means the property for the time being held upon the trusts of the deed made 9th August 1961 by the Company referred to in the scheme as the wider-range trust deed as set out in Schedule 2 to the scheme.

3. This Act may be cited as the Local Authorities' Mutual Investment Trust Act 1968. Short title.

Section 2.

SCHEDULE**NAMES OF LOCAL AUTHORITY ASSOCIATIONS WHICH SUBMITTED THE
SCHEME TO THE TREASURY**

County Councils Association.
Association of Municipal Corporations.
Urban District Councils Association.
Rural District Councils Association.
Metropolitan Boroughs' Standing Joint Committee.
Association of County Councils in Scotland.
Convention of Royal Burghs.
Counties of Cities Association.
Association of Superannuation Committees.



Export Guarantees Act 1968

1968 CHAPTER 26

An Act to consolidate the Export Guarantees Acts 1949 to 1967 as amended by the National Loans Act 1968.
[30th May 1968]

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

1.—(1) For the purpose of encouraging trade with other countries, the Board of Trade, after consultation with the Export Guarantees Advisory Council, may with the consent of the Treasury make arrangements for giving such guarantees to, or for the benefit of, persons carrying on business in the United Kingdom, the Isle of Man or the Channel Islands as are mentioned in subsection (2) of this section.

(2) The guarantees for which arrangements may be made under this section are guarantees in connection with the export, manufacture, treatment or distribution of goods, the rendering of services, or any other matter which appears to the Board of Trade conducive to the purpose of encouraging trade with other countries.

(3) In this section “trade with other countries” includes any transaction involving a consideration in money or money's worth accruing from a person carrying on business or other activities outside the United Kingdom, the Isle of Man and the Channel Islands to a person carrying on business in the United Kingdom, the Isle of Man or the Channel Islands.

(4) The Export Guarantees Advisory Council, that is to say, the Council constituted for the purposes of the Export Guarantees Act 1939 and continued for the purposes of the enactments repealed by this Act, shall be further continued by the Board of Trade for the purposes of this Act.

Further power to give guarantees, etc. in national interest.

2.—(1) For either of the purposes mentioned in subsection (2) of this section the Board of Trade may with the consent of the Treasury make arrangements for giving such guarantees to, or for the benefit of, persons carrying on business in the United Kingdom, the Isle of Man or the Channel Islands as appear to the Board to be expedient in the national interest.

(2) The purposes for which arrangements may be made under this section are—

- (a) the purpose mentioned in section 1(1) of this Act; and
- (b) the purpose of rendering economic assistance to countries outside the United Kingdom, the Isle of Man and the Channel Islands;

and the arrangements which may be made under this section for the purpose mentioned in paragraph (b) of this subsection include arrangements for facilitating the payment of sums payable under contracts with persons carrying on business in the United Kingdom, the Isle of Man or the Channel Islands.

Power of Board of Trade to acquire securities.

3.—(1) The Board of Trade may, with the consent of the Treasury, acquire any securities which the Board have guaranteed in the exercise of their powers under this Act or which have been created in pursuance of such arrangements as are mentioned in section 2(2) of this Act, and may, with that consent—

- (a) hold any security acquired by them in pursuance of this section for such period as they think fit and collect any sums falling due, whether by way of principal or interest, in respect thereof;
- (b) dispose of any such security at such time and in such manner as they think fit.

(2) The Acquisition of Guaranteed Securities Fund (in this section referred to as “the Fund”), that is to say, the Fund established under section 4 of the Overseas Trade Guarantees Act 1939 and continued under the Export Guarantees Act 1949, shall be further continued under the control and management of the Board of Trade for the purposes of this section.

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

- (a) such sums as are required to enable the Board to acquire securities under subsection (1) of this section; and
- (b) all sums received by them in respect of securities so acquired;

and payments under paragraph (a) of this subsection shall be made on such terms and conditions as to repayment, payment of interest, and otherwise as the Treasury may direct.

1939 c. 47.
1949 c. 14.

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

- (a) pay any sums required for the acquisition of securities under subsection (1) of this section;
- (b) repay into the Consolidated Fund any payments made under subsection (3)(a) of this section, with interest thereon; and
- (c) pay into the Consolidated Fund, at such times and in such manner as the Treasury may direct, any amount by which the sums received by the Board in respect of securities acquired under subsection (1) of this section exceed the sums required to make repayments and payments under paragraph (b) of this subsection.

(5) The Board of Trade shall prepare, in such form and manner as the Treasury may direct, an account of the sums received into and paid out of the Fund in each financial year, and shall, on or before 30th November in each year, transmit that account to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof together with his report thereon before both Houses of Parliament.

(6) In this section “ securities ” includes bonds, stock, shares, bills and promissory notes.

4.—(1) The aggregate of the liabilities at any time of the Board of Trade and of the sums paid by them for securities acquired and for the time being held by them in pursuance of this Act shall not exceed the following sums, that is to say,—

- (a) so far as the liabilities were incurred and the securities guaranteed in pursuance of arrangements made under section 1 of this Act, the sum of £2,400 million;
- (b) so far as the liabilities were incurred and the securities guaranteed or created in pursuance of arrangements made under section 2 of this Act, the sum of £1,500 million.

(2) References in this section to the liabilities of the Board of Trade do not include any liability in respect of interest on any principal moneys the payment of which is the subject of any guarantee given in pursuance of this Act.

5. Where a company is directly or indirectly controlled by any person (whether a company or not), then, for the purposes of this Act—

- (a) any contract entered into by the Board with that person shall, in so far as it provides for the Board of Trade to make payments to him in respect of any loss of that

company, or in respect of any deficit on an account relating both to activities of that company and to activities of his, be deemed a contract to indemnify him against loss, and a guarantee within the meaning of this Act;

- (b) any guarantee given by the Board to or for the benefit of that company shall be deemed to be given for the benefit also of that person; and
- (c) any arrangements made by the Board for facilitating the payment of sums payable under a contract with that company shall be deemed to be arrangements for facilitating the payment of sums payable under a contract with that person.

Supplementary provisions as to guarantees.

6. A guarantee given under this Act may be given on such terms and conditions as to the consideration for the giving of the guarantee and otherwise as may be determined in accordance with the arrangements made for giving that guarantee.

Exercise of powers of Board through Export Credits Guarantee Department.

7. All powers and duties of the Board of Trade under this Act shall be exercised and performed through the Export Credits Guarantee Department, which shall be a separate Department of the Board of Trade under the President of the Board.

Returns.

8. The Board of Trade shall publish quarterly—

- (a) a return showing the aggregate amount of the guarantees given under section 1 of this Act since the date of the last previous return under this paragraph;
- (b) a return showing the aggregate amount of the guarantees given under section 2 of this Act since the date of the last previous return under this paragraph, and of the amounts paid by the Board of Trade since that date for securities created in pursuance of such arrangements as are mentioned in subsection (2) of that section.

General expenses and receipts.

9.—(1) Except as otherwise provided by section 3 of this Act or subsection (2) of this section—

- (a) all expenses incurred by the Board of Trade under this Act shall be defrayed out of moneys provided by Parliament;
- (b) all sums received by the Board of Trade in connection with any guarantee given under this Act shall be paid into the Consolidated Fund.

(2) If any amount required for fulfilling any guarantee given under this Act is not paid out of moneys provided by Parliament it shall be charged on and issued out of the Consolidated Fund.

10.—(1) In this Act—

Interpretation.

“ business ” includes a profession;

“ guarantee ” includes any contract to indemnify, whether wholly or in part, against loss of any description and shall be construed in accordance with section 5(a) of this Act.

(2) Any reference in this Act to any provision of this Act shall, except where the context otherwise requires, be construed as including a reference to any corresponding provision of the enactments repealed by this Act or of any enactment previously in force.

11.—(1) This Act may be cited as the Export Guarantees Act 1968. Short title and repeals.

(2) The following are hereby repealed—

| | |
|---|-------------|
| the Export Guarantees Act 1949 | 1949 c. 14. |
| the Export Guarantees Act 1951 | 1951 c. 17. |
| the Export Guarantees Act 1957 | 1957 c. 23. |
| the Export Guarantees Act 1964 | 1964 c. 6. |
| the Export Guarantees Act 1967 | 1967 c. 11. |
| in section 10 of the National Loans Act 1968, subsections (4)(a) and (5). | 1968 c. 13. |



Firearms Act 1968

1968 CHAPTER 27

An Act to consolidate the Firearms Acts 1937 and 1965, the Air Guns and Shot Guns, etc., Act 1962, Part V of the Criminal Justice Act 1967 and certain enactments amending the Firearms Act 1937. [30th May 1968]

BE IT ENACTED by the Queen'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

PROVISIONS AS TO POSSESSION, HANDLING AND DISTRIBUTION OF WEAPONS AND AMMUNITION ; PREVENTION OF CRIME AND MEASURES TO PROTECT PUBLIC SAFETY

General restrictions on possession and handling of firearms and ammunition

1.—(1) Subject to any exemption under this Act, it is an offence for a person—

Requirement
of firearm
certificate.

- (a) to have in his possession, or to purchase or acquire, a firearm to which this section applies without holding a firearm certificate in force at the time, or otherwise than as authorised by such a certificate ;
- (b) to have in his possession, or to purchase or acquire, any ammunition to which this section applies without holding a firearm certificate in force at the time, or otherwise than as authorised by such a certificate, or in quantities in excess of those so authorised.

PART I

(2) It is an offence for a person to fail to comply with a condition subject to which a firearm certificate is held by him.

(3) This section applies to every firearm except—

- (a) a shot gun (that is to say a smooth-bore gun with a barrel not less than 24 inches in length, not being an air gun); and
- (b) an air weapon (that is to say, an air rifle, air gun or air pistol not of a type declared by rules made by the Secretary of State under section 53 of this Act to be specially dangerous).

(4) This section applies to any ammunition for a firearm, except the following articles, namely:—

- (a) cartridges containing five or more shot, none of which exceeds .36 inch in diameter;
- (b) ammunition for an air gun, air rifle or air pistol; and
- (c) blank cartridges not more than one inch in diameter measured immediately in front of the rim or cannelure of the base of the cartridge.

Requirement of certificate for possession of shot guns.

2.—(1) Subject to any exemption under this Act, it is an offence for a person to have in his possession, or to purchase or acquire, a shot gun without holding a certificate under this Act authorising him to possess shot guns.

(2) It is an offence for a person to fail to comply with a condition subject to which a shot gun certificate is held by him.

Business and other transactions with firearms and ammunition.

3.—(1) A person commits an offence if, by way of trade or business, he—

- (a) manufactures, sells, transfers, repairs, tests or proves any firearm or ammunition to which section 1 of this Act applies, or a shot gun; or
- (b) exposes for sale or transfer, or has in his possession for sale, transfer, repair, test or proof any such firearm or ammunition, or a shot gun,

without being registered under this Act as a firearms dealer.

(2) It is an offence for a person to sell or transfer to any other person in the United Kingdom, other than a registered firearms dealer, any firearm or ammunition to which section 1 of this Act applies, or a shot gun, unless that other produces a firearm certificate authorising him to purchase or acquire it or, as the case may be, his shot gun certificate, or shows that he is by virtue of this Act entitled to purchase or acquire it without holding a certificate.

(3) It is an offence for a person to undertake the repair, test or proof of a firearm or ammunition to which section 1 of this Act applies, or of a shot gun, for any other person in the United Kingdom other than a registered firearms dealer as such, unless that other produces or causes to be produced a firearm certificate authorising him to have possession of the firearm or ammunition or, as the case may be, his shot gun certificate, or shows that he is by virtue of this Act entitled to have possession of it without holding a certificate.

(4) Subsections (1) to (3) above have effect subject to any exemption under subsequent provisions of this Part of this Act.

(5) A person commits an offence if, with a view to purchasing or acquiring, or procuring the repair, test or proof of, any firearm or ammunition to which section 1 of this Act applies, or a shot gun, he produces a false certificate or a certificate in which any false entry has been made, or personates a person to whom a certificate has been granted, or makes any false statement.

(6) It is an offence for a pawnbroker to take in pawn any firearm or ammunition to which section 1 of this Act applies, or a shot gun.

4.—(1) Subject to this section, it is an offence to shorten the barrel of a shot gun to a length less than 24 inches. Conversion
of weapons.

(2) It is not an offence under subsection (1) above for a registered firearms dealer to shorten the barrel of a shot gun for the sole purpose of replacing a defective part of the barrel so as to produce a barrel not less than 24 inches in length.

(3) It is an offence for a person other than a registered firearms dealer to convert into a firearm anything which, though having the appearance of being a firearm, is so constructed as to be incapable of discharging any missile through its barrel.

(4) A person who commits an offence under section 1 of this Act by having in his possession, or purchasing or acquiring, a shotgun which has been shortened contrary to subsection (1) above or a firearm which has been converted contrary to subsection (3) above (whether by a registered firearms dealer or not), without holding a firearm certificate authorising him to have it in his possession, or to purchase or acquire it, shall be treated for the purposes of provisions of this Act relating to the punishment of offences as committing that offence in an aggravated form.

PART I

Weapons
subject to
general
prohibition.

Prohibition of certain weapons and control of arms traffic

5.—(1) A person commits an offence if, without the authority of the Defence Council, he has in his possession, or purchases or acquires, or manufactures, sells or transfers—

- (a) any firearm which is so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty;
- (b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing; and
- (c) any ammunition containing, or designed or adapted to contain, any such noxious thing.

(2) The weapons and ammunition specified in subsection (1) of this section are referred to in this Act as “prohibited weapons” and “prohibited ammunition” respectively.

(3) An authority given to a person by the Defence Council under this section shall be in writing and be subject to conditions specified therein.

(4) The conditions of the authority shall include such as the Defence Council, having regard to the circumstances of each particular case, think fit to impose for the purpose of securing that the prohibited weapon or ammunition to which the authority relates will not endanger the public safety or the peace.

(5) It is an offence for a person to whom an authority is given under this section to fail to comply with any condition of the authority.

(6) The Defence Council may at any time, if they think fit, revoke an authority given to a person under this section by notice in writing requiring him to deliver up the authority to such person as may be specified in the notice within twenty-one days from the date of the notice; and it is an offence for him to fail to comply with that requirement.

Power to
prohibit
movement of
arms and
ammunition.

6.—(1) The Secretary of State may by order prohibit the removal of firearms or ammunition—

- (a) from one place to another in Great Britain; or
- (b) from Great Britain to Northern Ireland; or
- (c) for export from Great Britain,

unless the removal is authorised by the chief officer of police for the area from which they are to be removed, and unless such other conditions as may be specified in the order are complied with.

(2) An order under this section may apply—

- (a) either generally to all such removals, or to removals from and to particular localities specified in the order; and
- (b) either to all firearms and ammunition or to firearms and ammunition of such classes and descriptions as may be so specified; and
- (c) either to all modes of conveyance or to such modes of conveyance as may be so specified;

but no such order shall prohibit the holder of a firearm certificate from carrying with him any firearm or ammunition authorised by the certificate to be so carried.

(3) It is an offence to contravene any provision of—

- (a) an order made under this section; or
- (b) an order made under section 9 of the Firearms Act 1920 (the former enactment corresponding to section 18 of the Firearms Act 1937 and this section); 1937 c. 12. or
- (c) any corresponding Northern Irish order, that is to say an order made under the said section 9 as extending to Northern Ireland or under any enactment of the Parliament of Northern Ireland repealing and re-enacting that section, prohibiting the removal of firearms or ammunition from Northern Ireland to Great Britain.

(4) An order under this section shall be made by statutory instrument and may be varied or revoked by a subsequent order made thereunder by the Secretary of State.

Special exemptions from sections 1 to 5

7.—(1) A person who has obtained from the chief officer of police for the area in which he resides a permit for the purpose in the prescribed form may, without holding a certificate under this Act, have in his possession a firearm and ammunition in accordance with the terms of the permit.

(2) It is an offence for a person to make any statement which he knows to be false for the purpose of procuring, whether for himself or for another person, the grant of a permit under this section.

8.—(1) A person carrying on the business of a firearms dealer and registered as such under this Act, or a servant of such a person may, without holding a certificate, have in his possession, or purchase or acquire, a firearm or ammunition in the ordinary course of that business.

PART

(2) It is not an offence under section 3(2) of this Act for a person—

- (a) to part with the possession of any firearm or ammunition, otherwise than in pursuance of a contract of sale or hire or by way of gift or loan, to a person who shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding a certificate; or
- (b) to return to another person a shot gun which he has lawfully undertaken to repair, test or prove for the other.

Carriers,
auctioneers,
etc.

9.—(1) A person carrying on the business of an auctioneer, carrier or warehouseman, or a servant of such a person, may, without holding a certificate, have in his possession a firearm or ammunition in the ordinary course of that business.

(2) It is not an offence under section 3(1) of this Act for an auctioneer to sell by auction, expose for sale by auction or have in his possession for sale by auction a firearm or ammunition without being registered as a firearms dealer, if he has obtained from the chief officer of police for the area in which the auction is held a permit for that purpose in the prescribed form and complies with the terms of the permit.

(3) It is an offence for a person to make any statement which he knows to be false for the purpose of procuring, either for himself or for another person, the grant of a permit under subsection (2) of this section.

(4) It is not an offence under section 3(2) of this Act for a carrier or warehouseman, or a servant of a carrier or warehouseman, to deliver any firearm or ammunition in the ordinary course of his business or employment as such.

Slaughter
of animals.
1958 c. 8.
1928 c. 29.

10.—(1) A person licensed under section 3 of the Slaughter of Animals Act 1958 or section 2 of the Slaughter of Animals (Scotland) Act 1928 may, without holding a certificate, have in his possession a slaughtering instrument and ammunition therefor in any slaughterhouse or knacker's yard in which he is employed.

(2) The proprietor of a slaughterhouse or knacker's yard or a person appointed by him to take charge of slaughtering instruments and ammunition therefor for the purpose of storing them in safe custody at that slaughterhouse or knacker's yard may, without holding a certificate, have in his possession a slaughtering instrument or ammunition therefor for that purpose.

11.—(1) A person carrying a firearm or ammunition belonging to another person holding a certificate under this Act may, without himself holding such a certificate, have in his possession that firearm or ammunition under instructions from, and for the use of, that other person for sporting purposes only.

PART I
Sports,
athletics and
other approved
activities.

(2) A person may, without holding a certificate, have a firearm in his possession at an athletic meeting for the purpose of starting races at that meeting.

(3) A member of a rifle club or miniature rifle club or cadet corps approved by the Secretary of State may, without holding a certificate, have in his possession a firearm and ammunition when engaged as a member of the club or corps in, or in connection with, drill or target practice.

(4) A person conducting or carrying on a miniature rifle range (whether for a rifle club or otherwise) or shooting gallery at which no firearms are used other than air weapons or miniature rifles not exceeding .23 inch calibre may, without holding a certificate, have in his possession, or purchase or acquire, such miniature rifles and ammunition suitable therefor; and any person may, without holding a certificate, use any such rifle and ammunition at such a range or gallery.

(5) A person may, without holding a shot gun certificate, borrow a shot gun from the occupier of private premises and use it on those premises in the occupier's presence.

(6) A person may, without holding a shot gun certificate, use a shot gun at a time and place approved for shooting at artificial targets by the chief officer of police for the area in which that place is situated.

12.—(1) A person taking part in a theatrical performance or a rehearsal thereof, or in the production of a cinematograph film, may, without holding a certificate, have a firearm in his possession during and for the purpose of the performance, rehearsal or production.

Theatre and
cinema.

(2) Where the Defence Council are satisfied, on the application of a person in charge of a theatrical performance, a rehearsal of such a performance or the production of a cinematograph film, that such a firearm as is described in section 5(1)(a) of this Act is required for the purpose of the performance, rehearsal or production, they may under section 5 of this Act, if they think fit, not only authorise that person to have possession of the firearm but also authorise such other persons as he may select to have possession of it while taking part in the performance, rehearsal or production.

U*

PART I
Equipment
for ships and
aircraft.

13.—(1) A person may, without holding a certificate,—

- (a) have in his possession a firearm or ammunition on board a ship, or a signalling apparatus or ammunition therefor on board an aircraft or at an aerodrome, as part of the equipment of the ship, aircraft or aerodrome ;
- (b) remove a signalling apparatus or ammunition therefor, being part of the equipment of an aircraft, from one aircraft to another at an aerodrome, or from or to an aircraft at an aerodrome to or from a place appointed for the storage thereof in safe custody at that aerodrome, and keep any such apparatus or ammunition at such a place ; and
- (c) if he has obtained from an officer of police a permit for the purpose in the prescribed form, remove a firearm from or to a ship, or a signalling apparatus from or to an aircraft or aerodrome, to or from such place and for such purpose as may be specified in the permit.

(2) It is an offence for a person to make any statement which he knows to be false for the purpose of procuring, either for himself or for another person, the grant of a permit under subsection (1)(c) of this section.

Persons
temporarily
in Great
Britain.

14. A person who has been in Great Britain for not more than thirty days in all in the preceding twelve months may have in his possession, or purchase or acquire, a shot gun without holding a shot gun certificate.

Holder of
Northern Irish
certificate.

15. Section 2(1) of this Act does not apply to a person holding a firearm certificate issued in Northern Ireland authorising him to possess a shot gun.

*Prevention of crime and preservation
of public safety*

Possession
of firearm
with intent
to injure.

16. It is an offence for a person to have in his possession any firearm or ammunition with intent by means thereof to endanger life or cause serious injury to property, or to enable another person by means thereof to endanger life or cause serious injury to property, whether any injury to person or property has been caused or not.

Use of
firearm to
resist arrest.

17.—(1) It is an offence for a person to make or attempt to make any use whatsoever of a firearm or imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or another person.

(2) If a person, at the time of his committing or being arrested for an offence specified in Schedule 1 to this Act, has in his possession a firearm or imitation firearm, he shall be

guilty of an offence under this subsection unless he shows that he had it in his possession for a lawful object.

PART I

(3) A firearm or imitation firearm shall, notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile, be deemed to be an offensive weapon or instrument for the purpose of section 23(1)(a) of the Larceny Act 1916 (armed robbery) and section 28(1) of that Act (going armed by night). 1916 c. 50.

(4) For purposes of this section, the definition of "firearm" in section 57(1) of this Act shall apply without paragraphs (b) and (c) of that subsection, and "imitation firearm" shall be construed accordingly.

(5) In the application of this section to Scotland, a reference to Schedule 2 to this Act shall be substituted for the reference in subsection (2) to Schedule 1; and subsection (3) shall be omitted.

18.—(1) It is an offence for a person to have with him a firearm or imitation firearm with intent to commit an indictable offence, or to resist arrest or prevent the arrest of another, in either case while he has the firearm or imitation firearm with him. Carrying
firearm
with criminal
intent.

(2) In proceedings for an offence under this section proof that the accused had a firearm or imitation firearm with him and intended to commit an offence, or to resist or prevent arrest, is evidence that he intended to have it with him while doing so.

(3) In the application of this section to Scotland, for the reference to an indictable offence there shall be substituted a reference to any offence specified in paragraphs 1 to 18 of Schedule 2 to this Act.

19. A person commits an offence if, without lawful authority or reasonable excuse (the proof whereof lies on him) he has with him in a public place a loaded shot gun or loaded air weapon, or any other firearm (whether loaded or not) together with ammunition suitable for use in that firearm. Carrying
firearm in a
public place.

20.—(1) A person commits an offence if, while he has a firearm with him, he enters or is in any building or part of a building as a trespasser and without reasonable excuse (the proof whereof lies on him). Trespassing
with firearm.

(2) A person commits an offence if, while he has a firearm with him, he enters or is on any land as a trespasser and without reasonable excuse (the proof whereof lies on him).

(3) In subsection (2) of this section the expression "land" includes land covered with water.

PART I
Possession of
firearms
by persons
previously
convicted
of crime.

21.—(1) A person who has been sentenced to preventive detention, or to imprisonment or to corrective training for a term of three years or more, or who has been sentenced to be detained for such a term in a young offenders institution in Scotland, shall not at any time have a firearm or ammunition in his possession.

(2) A person who has been sentenced to borstal training, to corrective training for less than three years or to imprisonment for a term of three months or more but less than three years, or who has been sentenced to be detained for such a term in a detention centre or in a young offenders institution in Scotland, shall not at any time before the expiration of the period of five years from the date of his release have a firearm or ammunition in his possession.

(3) A person who—

1933 c. 12.
1937 c. 37.

(a) is the holder of a licence issued under section 53 of the Children and Young Persons Act 1933 or section 57 of the Children and Young Persons (Scotland) Act 1937 (which sections provide for the detention of children and young persons convicted of serious crime, but enable them to be discharged on licence by the Secretary of State); or

(b) is subject to a recognizance to keep the peace or to be of good behaviour, a condition of which is that he shall not possess, use or carry a firearm, or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm; or

(c) has, in Scotland, been ordained to find caution a condition of which is that he shall not possess, use or carry a firearm;

shall not, at any time during which he holds the licence or is so subject or has been so ordained, have a firearm or ammunition in his possession.

(4) It is an offence for a person to contravene any of the foregoing provisions of this section.

(5) It is an offence for a person to sell or transfer a firearm or ammunition to, or to repair, test or prove a firearm or ammunition for, a person whom he knows or has reasonable ground for believing to be prohibited by this section from having a firearm or ammunition in his possession.

(6) A person prohibited under subsection (1), (2) or (3) of this section from having in his possession a firearm or ammunition may apply to quarter sessions or, in Scotland, in accordance with Act of Sederunt to the sheriff for a removal of the prohibition; and if the application is granted that prohibition shall not then apply to him.

(7) Schedule 3 to this Act shall have effect with respect to the courts with jurisdiction to entertain an application under this section and to the procedure appertaining thereto.

PART I

22.—(1) It is an offence for a person under the age of seventeen to purchase or hire any firearm or ammunition. Acquisition and possession of firearms by minors.

(2) It is an offence for a person under the age of fourteen to have in his possession any firearm or ammunition to which section 1 of this Act applies, except in circumstances where under section 11(1), (3) or (4) of this Act he is entitled to have possession of it without holding a firearm certificate.

(3) It is an offence for a person under the age of fifteen to have with him an assembled shot gun except while under the supervision of a person of or over the age of twenty-one, or while the shot gun is so covered with a securely fastened gun cover that it cannot be fired.

(4) Subject to section 23 below, it is an offence for a person under the age of fourteen to have with him an air weapon or ammunition for an air weapon.

(5) Subject to section 23 below, it is an offence for a person under the age of seventeen to have an air weapon with him in a public place, except an air gun or air rifle which is so covered with a securely fastened gun cover that it cannot be fired.

23.—(1) It is not an offence under section 22(4) of this Act for a person to have with him an air weapon or ammunition while he is under the supervision of a person of or over the age of twenty-one; but where a person has with him an air weapon on any premises in circumstances where he would be prohibited from having it with him but for this subsection, it is an offence— Exceptions from s. 22 (4) and (5).

(a) for him to use it for firing any missile beyond those premises; or

(b) for the person under whose supervision he is to allow him so to use it.

(2) It is not an offence under section 22(4) or (5) of this Act for a person to have with him an air weapon or ammunition at a time when—

(a) being a member of a rifle club or miniature rifle club for the time being approved by the Secretary of State for the purposes of this section or section 11(3) of this Act, he is engaged as such a member in or in connection with target practice; or

(b) he is using the weapon or ammunition at a shooting gallery where the only firearms used are either air weapons or miniature rifles not exceeding .23 inch calibre.

PART I
Supplying
firearms to
minors.

24.—(1) It is an offence to sell or let on hire any firearm or ammunition to a person under the age of seventeen.

(2) It is an offence—

(a) to make a gift of or lend any firearm or ammunition to which section 1 of this Act applies to a person under the age of fourteen ; or

(b) to part with the possession of any such firearm or ammunition to a person under that age, except in circumstances where that person is entitled under section 11(1), (3) or (4) of this Act to have possession thereof without holding a firearm certificate.

(3) It is an offence to make a gift of a shot gun or ammunition for a shot gun to a person under the age of fifteen.

(4) It is an offence—

(a) to make a gift of an air weapon or ammunition for an air weapon to a person under the age of fourteen ; or

(b) to part with the possession of an air weapon or ammunition for an air weapon to a person under that age except where by virtue of section 23 of this Act the person is not prohibited from having it with him.

(5) In proceedings for an offence under any provision of this section it is a defence to prove that the person charged with the offence believed the other person to be of or over the age mentioned in that provision and had reasonable ground for the belief.

Supplying
firearm to
person drunk
or insane.

25. It is an offence for a person to sell or transfer any firearm or ammunition to, or to repair, prove or test any firearm or ammunition for, another person whom he knows or has reasonable cause for believing to be drunk or of unsound mind.

PART II

**FIREARM AND SHOT GUN CERTIFICATES ; REGISTRATION OF
FIREARMS DEALERS**

*Grant, renewal, variation and revocation of firearm and shot
gun certificates*

Application
for, and
grant of,
certificates.

26.—(1) An application for the grant of a firearm or shot gun certificate shall be made in the prescribed form to the chief officer of police for the area in which the applicant resides and shall state such particulars as may be required by the form.

(2) Rules made by the Secretary of State under section 53 of this Act may—

(a) require any application for a certificate to be accompanied by a photograph of the applicant ;

(b) require the verification in the prescribed manner of any prescribed particulars and of the likeness of any such photograph to the applicant.

(3) Subject to the special provision made for shot gun certificates by section 28(3) below, a certificate shall, unless previously revoked or cancelled, continue in force for three years, or such shorter period as may be prescribed, from the date when it was granted or last renewed, but shall be renewable for a further period of three years, or a further prescribed period, by the chief officer of police for the area in which the holder resides, and so on from time to time; and the foregoing provisions of this section apply to the renewal of a certificate as they apply to a grant:

Provided that, subject to the power of renewal conferred by this subsection, a certificate granted or last renewed in Northern Ireland shall not continue in force for a period longer than that for which it was so granted or last renewed.

(4) A person aggrieved by the refusal of a chief officer of police to grant or to renew a certificate under this Act may in accordance with section 44 of this Act appeal against the refusal.

(5) It is an offence for a person to make any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a certificate under this Act.

27.—(1) A firearm certificate shall be granted by the chief officer of police if he is satisfied that the applicant has a good reason for having in his possession, or for purchasing or acquiring, the firearm or ammunition in respect of which the application is made, and can be permitted to have it in his possession without danger to the public safety or to the peace: Special provisions about firearm certificates.

Provided that a firearm certificate shall not be granted to a person whom the chief officer of police has reason to believe to be prohibited by this Act from possessing a firearm to which section 1 of this Act applies, or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with such a firearm.

(2) A firearm certificate shall be in the prescribed form and shall specify the conditions (if any) subject to which it is held, the nature and number of the firearms to which it relates and, as respects ammunition, the quantities authorised to be purchased and to be held at any one time thereunder.

(3) This section applies to the renewal of a firearm certificate as it applies to a grant.

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Special provisions about shot gun certificates.

28.—(1) A shot gun certificate shall be granted or, as the case may be, renewed by the chief officer of police unless he has reason to believe that the applicant—

- (a) is prohibited by this Act from possessing a shot gun ; or
- (b) cannot be permitted to possess a shot gun without danger to the public safety or to the peace.

(2) A shot gun certificate shall be in the prescribed form and shall—

- (a) be granted or renewed subject to any prescribed conditions and no others ; and
- (b) specify the conditions, if any, subject to which it is granted or renewed.

(3) Notwithstanding section 26(3) of this Act, a shot gun certificate issued before the expiration of six months from the date of the commencement of this Act shall continue in force for such period from that date or from the date when it is granted, whichever is the later, as may be specified in the certificate by the chief officer of police (being a period of not less than one year but not more than five years).

Variation of firearm certificates.

29.—(1) The chief officer of police for the area in which the holder of a firearm certificate resides may at any time by notice in writing vary the conditions subject to which the certificate is held, except such of them as may be prescribed, and may by the notice require the holder to deliver up the certificate to him within twenty-one days from the date of the notice for the purpose of amending the conditions specified therein.

(2) A firearm certificate may also, on the application of the holder, be varied from time to time by the chief officer of police for the area in which the holder for the time being resides ; and a person aggrieved by the refusal of a chief officer of police to vary a firearm certificate may in accordance with section 44 of this Act appeal against the refusal.

(3) It is an offence for a person to make any statement which he knows to be false for the purpose of procuring, whether for himself or another person, the variation of a firearm certificate.

Revocation of certificates.

30.—(1) A firearm certificate may be revoked by the chief officer of police for the area in which the holder resides if—

- (a) the chief officer is satisfied that the holder is prohibited by this Act from possessing a firearm to which section 1 of this Act applies or is of intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with such a firearm ; or

(b) the holder fails to comply with a notice under section 29(1) of this Act requiring him to deliver up the certificate.

(2) A shot gun certificate may be revoked by the chief officer of police if he is satisfied that the holder is prohibited by this Act from possessing a shot gun or cannot be permitted to possess a shot gun without danger to the public safety or to the peace.

(3) A person aggrieved by the revocation of a certificate under subsection (1)(a) or (2) of this section may in accordance with section 44 of this Act appeal against the refusal.

(4) Where a certificate is revoked by the chief officer of police under this section, he shall by notice in writing require the holder to surrender the certificate ; and it is an offence for the holder to fail to do so within twenty-one days from the date of the notice:

Provided that, if an appeal is brought against the revocation, this subsection shall not apply to that revocation unless the appeal is abandoned or dismissed, and shall then apply with the substitution, for the reference to the date of the notice, of a reference to the date on which the appeal was abandoned or dismissed.

31.—(1) A chief officer of police shall not refuse to grant or renew, and shall not revoke, a firearm certificate in respect of a prohibited weapon or prohibited ammunition if the applicant for the certificate is for the time being authorised by the Defence Council under section 5 of this Act to have possession of that weapon or ammunition. Certificate for prohibited weapon.

(2) Where an authority of the Defence Council under that section to have possession of, or to purchase or acquire, a prohibited weapon or prohibited ammunition is revoked, the firearm certificate relating to that weapon or ammunition shall be revoked or varied accordingly by the chief officer of police by whom it was granted.

32.—(1) Subject to this Act, there shall be payable—

- (a) on the grant of a firearm or shot gun certificate a fee of 5s. 0d. ;
- (b) on the renewal of a certificate or on the replacement of a certificate which has been lost or destroyed, a fee of 2s. 6d. ; and
- (c) on any variation of a firearm certificate (otherwise than when it is renewed or replaced at the same time) so as to increase the number of firearms to which the certificate relates, a fee of 2s. 6d.

Fee for certificate and exemption from paying it in certain cases.

PART II

(2) No fee shall be payable on the grant to a responsible officer of a rifle club, miniature rifle club, or cadet corps approved for the purpose by the Secretary of State, of a firearm certificate in respect of firearms or ammunition to be used solely for target practice or drill by the members of the club or corps, or on the variation or renewal of a certificate so granted.

(3) No fee shall be payable on the grant, variation or renewal of a firearm certificate if the chief officer of police is satisfied that the certificate relates solely to and, in the case of a variation, will continue when varied to relate solely to—

- (a) a firearm or ammunition which the applicant requires as part of the equipment of a ship ; or
- (b) a signalling apparatus, or ammunition therefor, which the applicant requires as part of the equipment of an aircraft or aerodrome ; or
- (c) a slaughtering instrument, or ammunition therefor, which the applicant requires for the purpose of the slaughter of animals.

(4) No fee shall be payable—

- (a) on the grant or renewal of a firearm certificate relating solely to a firearm which is shown to the satisfaction of the chief officer of police to be kept by the applicant as a trophy of war ; or
- (b) on any variation of a certificate the sole effect of which is to add such a firearm as aforesaid to the firearms to which the certificate relates,

if the certificate is granted, renewed or varied subject to the condition that the applicant shall not use the firearm.

Registration of firearms dealers

Police
register.

33.—(1) For purposes of this Act, the chief officer of police for every area shall keep in the prescribed form a register of firearms dealers.

(2) Except as provided by section 34 of this Act, the chief officer of police shall enter in the register the name of any person who, having or proposing to have a place of business in the area, applies to be registered as a firearms dealer.

(3) In order to be registered, the applicant must furnish the chief officer of police with the prescribed particulars, which shall include particulars of every place of business at which he proposes to carry on business in the area as a firearms dealer and, except as provided by this Act, the chief officer of police shall enter every such place of business in the register.

(4) When a person is registered, the chief officer of police shall grant or cause to be granted to him a certificate of registration.

(5) A person for the time being registered shall, on or before 1st June in each year—

(a) surrender his certificate to the chief officer of police ;
and

(b) apply in the prescribed form for a new certificate ;

and thereupon the chief officer of police shall, subject to sections 35(3) and 38(1) below, grant him a new certificate of registration.

34.—(1) The chief officer of police shall not register an applicant as a firearms dealer if he is prohibited to be so registered by order of a court in Great Britain made under section 45 of this Act, or by order of a court in Northern Ireland under section 8(5) of the Firearms Act 1920 or any enactment of the Parliament of Northern Ireland amending or substituted for that section. Grounds for refusal of registration. 1920 c. 43.

(2) Subject to subsection (3) below, the chief officer of police may refuse to register an applicant, if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(3) In the case of a person for the time being authorised by the Defence Council under section 5 of this Act to manufacture, sell or transfer prohibited weapons or ammunition, the chief officer of police shall not refuse to enter his name in the register on the ground that he cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(4) The chief officer of police, if he is satisfied that a place of business notified to him under section 33(3) of this Act by an applicant for registration is a place at which the person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register.

(5) A person aggrieved by the refusal of a chief officer of police to register him as a firearms dealer, or to enter in the register a place of business of his, may in accordance with section 44 of this Act appeal against the refusal.

35.—(1) Subject to this Act, on the registration of a person as a firearms dealer there shall be payable by him a fee of £5. Fee for registration and renewal thereof.

(2) No fee shall be payable if the chief officer of police for the area in which the applicant has applied to be registered is

PART II satisfied that the only place of business in respect of which the application is made—

- (a) has become situated in that area because of an alteration in the boundary of the area and was previously entered in the register for another area ; or
- (b) is one to which the applicant proposes to transfer the business previously carried on by him at a place entered in the register for another area.

(3) Before a person for the time being registered as a firearms dealer can be granted a new certificate of registration under section 33(5) of this Act, he shall pay a fee of £1.

Conditions of registration.

36.—(1) The chief officer of police may at any time impose conditions subject to which the registration of a person as a firearms dealer is to have effect and may at any time, of his own motion or on the application of the dealer, vary or revoke any such condition.

(2) The chief officer of police shall specify the conditions for the time being in force under this section in the certificate of registration granted to the firearms dealer and, where any such condition is imposed, varied or revoked during the currency of the certificate of registration, the chief officer of police—

- (a) shall give to the dealer notice in writing of the condition or variation (giving particulars) or of the revocation, as the case may be ; and
- (b) may by that notice require the dealer to deliver up to him his certificate of registration within twenty-one days from the date of the notice, for the purpose of amending the certificate.

(3) A person aggrieved by the imposition or variation of, or refusal to vary or revoke, any condition of a firearms dealer's registration may in accordance with section 44 of this Act appeal against the imposition, variation or refusal.

Registration of new place of business.

37.—(1) A person registered in any area as a firearms dealer and proposing to carry on business as such at a place of business in that area which is not entered in the register, shall notify the chief officer of police for that area and furnish him with such particulars as may be prescribed ; and the officer shall, subject to the provisions of this section, enter that place of business in the register.

(2) The chief officer of police, if he is satisfied that a place of business notified to him by a person under subsection (1) of this section is a place at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter it in the register.

(3) A person aggrieved by the refusal by a chief officer of police to enter in the register a place of business of his may in accordance with section 44 of this Act appeal against the refusal.

38.—(1) If the chief officer of police, after giving reasonable notice to a person whose name is on the register, is satisfied that the person—

Removal from register of dealer's name or place of business.

- (a) is no longer carrying on business as a firearms dealer ; or
- (b) has ceased to have a place of business in the area ; or
- (c) cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace,

he shall (subject to this section) cause the name of that person to be removed from the register.

(2) In the case of a person for the time being authorised by the Defence Council under section 5 of this Act to manufacture, sell or transfer prohibited weapons or ammunition, the chief officer of police shall not remove his name from the register on the ground that he cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace.

(3) If the chief officer of police is satisfied that a person registered as a firearms dealer has failed to comply with any of the conditions of registration in force under section 36 of this Act, he may remove from the register either that person's name or any place of business of his to which the condition relates.

(4) If the chief officer of police is satisfied that a place entered in the register as a person's place of business is one at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, he may remove that place from the register.

(5) The chief officer of police shall cause the name of a person to be removed from the register if the person so desires.

(6) If a person for the time being registered fails to comply with any requirement of section 33(5) of this Act, the chief officer of police shall by notice in writing require him to comply with that requirement and, if the person fails to do so within twenty-one days from the date of the notice or within such further time as the chief officer may in special circumstances allow, shall cause his name to be removed from the register.

(7) A person aggrieved by the removal of his name from the register, or by the removal from the register of a place of business of his, may in accordance with section 44 of this Act appeal against the removal.

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(8) Where the chief officer of police causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration; and it is an offence for the dealer to fail to do so within twenty-one days from the date of the notice:

Provided that, if an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed and shall then apply with the substitution, for the reference to the date of the notice, of a reference to the date on which the appeal was abandoned or dismissed.

Offences in connection with registration.

39.—(1) A person commits an offence if, for the purpose—

- (a) of procuring the registration of himself or another person as a firearms dealer; or
- (b) of procuring, whether for himself or another person, the entry of any place of business in a register of firearms dealers,

he makes any statement which he knows to be false.

(2) A person commits an offence if, being a registered firearms dealer, he has a place of business which is not entered in the register for the area in which the place of business is situated and carries on business as a firearms dealer at that place.

(3) Without prejudice to section 38(3) above, a person commits an offence if he fails to comply with any of the conditions of registration imposed on him by the chief officer of police under section 36 of this Act.

Supplementary

Compulsory register of transactions in firearms.

40.—(1) Subject to section 41 of this Act, every person who by way of trade or business manufactures, sells or transfers firearms or ammunition shall provide and keep a register of transactions and shall enter or cause to be entered therein the particulars specified in Schedule 4 to this Act.

(2) In subsection (1) above and in the said Schedule 4, any reference to firearms is to be construed as not including a reference to air weapons or component parts of, or accessories to, air weapons; and any reference therein to ammunition is to be construed as not including—

- (a) cartridges containing five or more shot, none of which exceeds .36 inch in diameter;
- (b) ammunition for an air gun, air rifle or air pistol; or
- (c) blank cartridges not more than one inch in diameter measured immediately in front of the rim or cannellure of the base of the cartridge.

PART II

(3) Every entry required by subsection (1) of this section to be made in the register shall be made within twenty-four hours after the transaction to which it relates took place and, in the case of a sale or transfer, every person to whom that subsection applies shall at the time of the transaction require the purchaser or transferee, if not known to him, to furnish particulars sufficient for identification and shall immediately enter the said particulars in the register.

(4) Every person keeping a register in accordance with this section shall on demand allow an officer of police, duly authorised in writing in that behalf by the chief officer of police, to enter and inspect all stock in hand and shall on request by an officer of police so authorised or by an officer of customs and excise produce the register for inspection:

Provided that, where a written authority is required by this subsection, the authority shall be produced on demand.

(5) It is an offence for a person to fail to comply with any provision of this section or knowingly to make any false entry in the register required to be kept thereunder.

(6) Nothing in this section applies to the sale of firearms or ammunition by auction in accordance with the terms of a permit issued under section 9(2) of this Act.

(7) Rules made by the Secretary of State under section 53 of this Act may vary or add to Schedule 4 to this Act, and references in this section to that Schedule shall be construed as references to the Schedule as for the time being so varied or added to.

41. If it appears to the chief officer of police that—

(a) a person required to be registered as a firearms dealer carries on a trade or business in the course of which he manufactures, tests or repairs component parts or accessories for shot guns, but does not manufacture, test or repair complete shot guns; and

(b) it is impossible to assemble a shot gun from the parts likely to come into that person's possession in the course of that trade or business,

Exemption
from s. 40
in case of
trade in shot
gun
components.

the chief officer of police may, if he thinks fit, by notice in writing given to that person exempt his transactions in those parts and accessories, so long as the notice is in force, from all or any of the requirements of section 40 of this Act and Schedule 4 thereto.

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Transactions with persons not registered dealers.

42.—(1) A person who sells, lets on hire, gives or lends a firearm or ammunition to which section 1 of this Act applies to another person in the United Kingdom, not being a registered firearms dealer shall, unless the other person shows that he is by virtue of this Act entitled to purchase or acquire the firearm or ammunition without holding a firearm certificate, comply with any instructions contained in the certificate produced; and in the case of a firearm he shall, within forty-eight hours from the transaction, send by registered post or the recorded delivery service notice of the transaction to the chief officer of police by whom the certificate was issued.

(2) It is an offence for a person to fail to comply with this section.

Power of Secretary of State to alter fees.

43.—(1) Sections 32 and 35 of this Act may be amended by an order made by the Secretary of State so as to vary any sum specified thereby, or so as to provide that any sum payable thereunder shall cease to be so payable.

(2) An order made under this section may—

(a) be limited to such cases as may be specified by the order and may make different provision for different cases so specified; and

(b) be revoked or varied by a subsequent order so made.

(3) The power to make orders under this section shall be exercisable by statutory instrument and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Appeals from police decisions under Part II.

44.—(1) An appeal under section 26, 29, 30, 34, 36, 37 or 38 of this Act lies, in England and Wales, to quarter sessions and, in Scotland, in accordance with Act of Sederunt to the sheriff.

(2) In relation to an appeal specified in the first column of Part I of Schedule 5 to this Act—

(a) the second column shows, for England and Wales, the court of quarter sessions; and

(b) the third column shows, for Scotland, the sheriff, having jurisdiction to entertain the appeal.

(3) The procedural and other provisions contained in Part II of Schedule 5 to this Act shall have effect (for England and Wales only) on an appeal to quarter sessions under any provision of this Part of this Act.

Consequences where registered dealer convicted of offence.

45.—(1) Where a registered firearms dealer is convicted of an offence relevant for the purposes of this section the court may order—

(a) that the name of the dealer be removed from the register; and

PART II

- (b) that neither the dealer nor any person who acquires his business, nor any person who took part in the management of the business and was knowingly a party to the offence, shall be registered as a firearms dealer; and
 - (c) that any person who, after the date of the order, knowingly employs in the management of his business the dealer convicted of the offence or any person who was knowingly a party to the offence, shall not be registered as a firearms dealer or, if so registered, shall be liable to be removed from the register; and
 - (d) that any stock-in-hand of the business shall be disposed of by sale or otherwise in accordance with such directions as may be contained in the order.
- (2) The offences relevant for the purposes of this section are:—
- (a) all offences under this Act, except an offence under section 2, 22(3) or 24(3) or an offence relating specifically to air weapons; and
 - (b) offences against the enactments relating to customs in respect of the import or export of firearms or ammunition to which section 1 of this Act applies, or of shot guns.
- (3) A person aggrieved by an order made under this section may appeal against the order in the same manner as against the conviction, and the court may, if it thinks fit, suspend the operation of the order pending the appeal.

PART III

LAW ENFORCEMENT AND PUNISHMENT OF OFFENCES

46.—(1) If a justice of the peace or, in Scotland, the sheriff or any magistrate (by whatever name called) officiating under the provisions of a general or local Police Act, is satisfied by information on oath that there is reasonable ground for suspecting that an offence relevant for the purposes of this section has been, is being, or is about to be committed, he may grant a search warrant authorising a constable named therein—

Power of search with warrant.

- (a) to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found there;
- (b) to seize and detain any firearm or ammunition which he may find on the premises or place, or on any such person, in respect of which or in connection with which he has reasonable ground for suspecting that an offence relevant for the purposes of this section has been, is being or is about to be committed; and

PART III

(c) if the premises are those of a registered firearms dealer, to examine any books relating to the business.

(2) The offences relevant for the purposes of this section are all offences under this Act except an offence under section 22(3) or an offence relating specifically to air weapons.

Powers of constables to stop and search.

47.—(1) A constable may require any person whom he has reasonable cause to suspect—

(a) of having a firearm, with or without ammunition, with him in a public place; or

(b) to be committing or about to commit, elsewhere than in a public place, an offence relevant for the purposes of this section,

to hand over the firearm or any ammunition for examination by the constable.

(2) It is an offence for a person having a firearm or ammunition with him to fail to hand it over when required to do so by a constable under subsection (1) of this section.

(3) If a constable has reasonable cause to suspect a person of having a firearm with him in a public place, or to be committing or about to commit, elsewhere than in a public place, an offence relevant for the purposes of this section, the constable may search that person and may detain him for the purpose of doing so.

(4) If a constable has reasonable cause to suspect that there is a firearm in a vehicle in a public place, or that a vehicle is being or is about to be used in connection with the commission of an offence relevant for the purposes of this section elsewhere than in a public place, he may search the vehicle and for that purpose require the person driving or in control of it to stop it.

(5) For the purpose of exercising the powers conferred by this section a constable may enter any place.

(6) The offences relevant for the purpose of this section are those under sections 18(1) and (2) and 20 of this Act.

Production of certificates.

48.—(1) A constable may demand, from any person whom he believes to be in possession of a firearm or ammunition to which section 1 of this Act applies, or of a shot gun, the production of his firearm certificate or, as the case may be, his shot gun certificate.

(2) If a person upon whom a demand is made under this section fails to produce the certificate or to permit the constable to read it, or to show that he is entitled by virtue of this Act to have the firearm, ammunition or shot gun in his possession without holding a certificate, the constable may seize and detain

the firearm, ammunition or shot gun and may require the person to declare to him immediately his name and address.

(3) If under this section a person is required to declare to a constable his name and address, it is an offence for him to refuse to declare it or to fail to give his true name and address.

49.—(1) An officer of police may search for and seize any firearms or ammunition which he has reason to believe are being removed, or to have been removed, in contravention of an order made under section 6 of this Act or of a corresponding Northern Irish order within the meaning of subsection (3)(c) of that section. Police powers in relation to arms traffic.

(2) A person having the control or custody of any firearms or ammunition in course of transit shall, on demand by a constable, allow him all reasonable facilities for the examination and inspection thereof and shall produce any documents in his possession relating thereto.

(3) It is an offence for a person to fail to comply with subsection (2) of this section.

50.—(1) A constable making a search of premises under the authority of a warrant under section 46 of this Act may arrest without warrant any person found on the premises whom he has reason to believe to be guilty of an offence relevant for the purposes of that section. Special powers of arrest.

(2) A constable may arrest without warrant any person whom he has reasonable cause to suspect to be committing an offence under section 19, 20, 21 or 47(2) of this Act and, for the purpose of exercising the power conferred by this subsection, may enter any place.

In Scotland, this subsection shall have effect with the inclusion of a reference to an offence under section 4, 5 or 18 of this Act.

(3) A constable may arrest without warrant a person who refuses to declare his name and address when required to do so under section 48(2) of this Act, or whom he in such a case suspects of giving a false name and address or of intending to abscond.

51.—(1) Part I of Schedule 6 to this Act shall have effect with respect to the way in which offences under this Act are punishable on conviction. Prosecution and punishment of offences.

(2) In relation to an offence under a provision of this Act specified in the first column of the Schedule (the general nature of the offence being described in the second column),—

(a) the third column shows whether the offence is punishable on summary conviction or on indictment or either in one way or the other ; and

PART III

(b) the fourth column shows the maximum punishment by way of fine or imprisonment under this Act which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), any reference in the fourth column to a period of years or months being construed as a reference to a term of imprisonment of that duration.

(3) The provisions contained in Part II of Schedule 6 to this Act (being provisions as to the inclusion in an indictment in Scotland of certain summary offences, the punishments which may be imposed when a person is convicted of more than one offence arising out of the same set of circumstances, alternative verdicts and the orders which, in certain cases, a court may make when a person is convicted by or before it) shall have effect in relation to such of the offences specified in Part I of that Schedule as are indicated by entries against those offences in the fifth column of that Part.

1952 c. 55.
1954 c. 48.

(4) Notwithstanding section 104 of the Magistrates' Courts Act 1952 or section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for taking proceedings) summary proceedings for an offence under this Act, other than an offence under section 22(3) or an offence relating specifically to air weapons, may be instituted at any time within four years after the commission of the offence:

Provided that no such proceedings shall be instituted in England after the expiration of six months after the commission of the offence unless they are instituted by, or by the direction of, the Director of Public Prosecutions.

Forfeiture and disposal of firearms; cancellation of certificate by convicting court.

52.—(1) Where a person—

- (a) is convicted of an offence under this Act (other than an offence under section 22(3) or an offence relating specifically to air weapons) or is convicted of a crime for which he is sentenced to imprisonment, preventive detention, corrective training, borstal training or detention in a detention centre or in a young offenders' institution in Scotland; or
- (b) has been ordered to enter into a recognizance to keep the peace or to be of good behaviour, a condition of which is that he shall not possess, use or carry a firearm; or
- (c) is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm; or
- (d) has, in Scotland, been ordained to find caution a condition of which is that he shall not possess, use or carry a firearm,

the court by or before which he is convicted, or by which the order is made, may make such order as to the forfeiture or

disposal of any firearm or ammunition found in his possession as the court thinks fit and may cancel any firearm certificate or shot gun certificate held by him.

PART III

(2) Where the court cancels a certificate under this section—

- (a) the court shall cause notice to be sent to the chief officer of police by whom the certificate was granted ; and
- (b) the chief officer of police shall by notice in writing require the holder of the certificate to surrender it ; and
- (c) it is an offence for the holder to fail to surrender the certificate within twenty-one days from the date of the notice given him by the chief officer of police.

(3) A constable may seize and detain any firearm or ammunition which may be the subject of an order for forfeiture under this section.

(4) A court of summary jurisdiction or, in Scotland, the sheriff may, on the application of the chief officer of police, order any firearm or ammunition seized and detained by a constable under this Act to be destroyed or otherwise disposed of.

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MISCELLANEOUS AND GENERAL

53. The Secretary of State may by statutory instrument make rules—

Rules for implementing this Act.

- (a) prescribing the form of certificates under this Act, and the register required to be kept under section 40 of this Act and other documents ;
- (b) prescribing any other thing which under this Act is to be prescribed ; and
- (c) generally for carrying this Act into effect ;

and rules made under this section may make different provision for different cases.

54.—(1) Sections 1, 2, 7 to 13 and 26 to 32 of this Act apply, subject to the modifications specified in subsection (2) of this section, to persons in the service of Her Majesty in their capacity as such so far as those provisions relate to the purchase and acquisition, but not so far as they relate to the possession, of firearms.

Application of Parts I and II to Crown servants.

(2) The modifications referred to above are the following:—

- (a) a person in the service of Her Majesty duly authorised in writing in that behalf may purchase or acquire firearms and ammunition for the public service without holding a certificate under this Act ;

PART IV

(b) a person in the naval, military or air service of Her Majesty shall, if he satisfies the chief officer of police on an application under section 26 of this Act that he is required to purchase a firearm or ammunition for his own use in his capacity as such, be entitled without payment of any fee to the grant of a firearm certificate authorising the purchase or acquisition or, as the case may be, to the grant of a shot gun certificate.

(3) For the purposes of this section and of any rule of law whereby any provision of this Act does not bind the Crown, a member of a police force shall be deemed to be a person in the service of Her Majesty.

Exercise
of police
functions.

55.—(1) Rules made under section 53 of this Act may—

- (a) regulate the manner in which chief officers of police are to carry out their duties under this Act;
- (b) enable all or any of the functions of a chief officer of police to be discharged by a deputy in the event of his illness or absence, or of a vacancy in the office of chief officer of police.

(2) Without prejudice to subsection (1)(b) of this section, the functions of a chief officer of police under this Act shall be exercisable on any occasion by a person, or a person of a particular class, authorised by the chief officer of police to exercise that function on that occasion, or on occasions of that class or on all occasions.

Service of
notices.

56. Any notice required or authorised by this Act to be given to a person may be sent by registered post or by the recorded delivery service in a letter addressed to him at his last or usual place of abode or, in the case of a registered firearms dealer, at any place of business in respect of which he is registered.

Interpretation.

57.—(1) In this Act, the expression “firearm” means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes—

- (a) any prohibited weapon, whether it is such a lethal weapon as aforesaid or not; and
- (b) any component part of such a lethal or prohibited weapon; and
- (c) any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon;

and so much of section 1 of this Act as excludes any description of firearm from the category of firearms to which that section applies shall be construed as also excluding component parts of, and accessories to, firearms of that description.

(2) In this Act, the expression “ammunition” means ammunition for any firearm and includes grenades, bombs and other like missiles, whether capable of use with a firearm or not, and also includes prohibited ammunition.

(3) For purposes of sections 45, 46, 50, 51(4) and 52 of this Act, the offences under this Act relating specifically to air weapons are those under sections 22(4), 22(5), 23(1) and 24(4).

(4) In this Act—

“acquire” means hire, accept as a gift or borrow and “acquisition” shall be construed accordingly;

“air weapon” has the meaning assigned to it by section 1(3)(b) of this Act;

“area” means a police area;

“certificate” (except in a context relating to the registration of firearms dealers) and “certificate under this Act” mean a firearm certificate or a shot gun certificate and—

(a) “firearm certificate” means a certificate granted by a chief officer of police under this Act in respect of any firearm or ammunition to which section 1 of this Act applies and includes a certificate granted in Northern Ireland under section 1 of the Firearms Act 1920 or under an enactment of the 1920 c. 43. Parliament of Northern Ireland amending or substituted for that section; and

(b) “shot gun certificate” means a certificate granted by a chief officer of police under this Act and authorising a person to possess shot guns;

“firearms dealer” means a person who, by way of trade or business, manufactures, sells, transfers, repairs, tests or proves firearms or ammunition to which section 1 of this Act applies, or shot guns;

“imitation firearm” means any thing which has the appearance of being a firearm (other than such a weapon as is mentioned in section 5(1)(b) of this Act) whether or not it is capable of discharging any shot, bullet or other missile;

“indictable offence” has the same meaning as in the Magistrates’ Courts Act 1952, except that it does not 1952 c. 55. include an offence which is triable on indictment only after one or more previous summary convictions thereof;

“premises” includes any land;

“prescribed” means prescribed by rules made by the Secretary of State under section 53 of this Act;

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“prohibited weapon” and “prohibited ammunition” have the meanings assigned to them by section 5(2) of this Act;

“public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise;

“registered”, in relation to a firearms dealer, means registered either—

(a) in Great Britain, under section 33 of this Act,
or

(b) in Northern Ireland, under section 8 of the Firearms Act 1920 or any enactment of the Parliament of Northern Ireland amending or substituted for that section,

and references to “the register”, “registration” and a “certificate of registration” shall be construed accordingly, except in section 40;

“shot gun” has the meaning assigned to it by section 1(3)(a) of this Act and, in sections 3(1) and 45(2) of this Act and in the definition of “firearms dealer”, includes any component part of a shot gun and any accessory to a shot gun designed or adapted to diminish the noise or flash caused by firing the gun;

“slaughtering instrument” means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughtering them; and

“transfer” includes let on hire, give, lend and part with possession, and “transferee” and “transferor” shall be construed accordingly.

(5) The definitions in subsections (1) to (3) above apply to the provisions of this Act except where the context otherwise requires.

(6) For purposes of this Act—

(a) the length of the barrel of a firearm shall be measured from the muzzle to the point at which the charge is exploded on firing; and

(b) a shot gun or an air weapon shall be deemed to be loaded if there is ammunition in the chamber or barrel or in any magazine or other device which is in such a position that the ammunition can be fed into the chamber or barrel by the manual or automatic operation of some part of the gun or weapon.

58.—(1) Nothing in this Act shall apply to the proof houses of the Master, Wardens and Society of the Mystery of Gun-makers of the City of London and the guardians of the Birmingham proof house or the rifle range at Small Heath in Birmingham where firearms are sighted and tested, so as to interfere in any way with the operations of those two companies in proving firearms under the provisions of the Gun Barrel Proof Act 1868 or any other Acts for the time being in force, or to any person carrying firearms to or from any such proof house when being taken to such proof house for the purposes of proof or being removed therefrom after proof.

PART IV
Particular
savings.

1868 c. cxiii.

(2) Nothing in this Act relating to firearms shall apply to an antique firearm which is sold, transferred, purchased, acquired or possessed as a curiosity or ornament.

(3) The provisions of this Act relating to ammunition shall be in addition to and not in derogation of any enactment relating to the keeping and sale of explosives.

(4) The powers of arrest and entry conferred by Part III of this Act shall be without prejudice to any power of arrest or entry which may exist apart from this Act; and section 52(3) of this Act is not to be taken as prejudicing the power of a constable, when arresting a person for an offence, to seize property found in his possession or any other power of a constable to seize firearms, ammunition or other property, being a power exercisable apart from that subsection.

(5) Nothing in this Act relieves any person using or carrying a firearm from his obligation to take out a licence to kill game under the enactments requiring such a licence.

59.—(1) The enactments specified in the second column of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Repeals and
general
savings.

(2) In so far as any certificate, authority or permit granted, order or rule made, registration effected, or other thing done under an enactment repealed by this Act could have been granted, made, effected or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if granted, made, effected or done under that corresponding provision; and for the purposes of this provision anything which under section 33(1) or (2) of the Firearms Act 1937 had effect as if done under any enactment in that Act shall, so far as may be necessary for the continuity of the law, be treated as done under the corresponding enactment in this Act.

1937 c. 12.

(3) Any document referring to an enactment repealed by this Act or by the Firearms Act 1937 shall, so far as may be necessary for preserving its effect, be construed as referring, or as

PART IV

including a reference, to the corresponding enactment in this Act.

(4) The mention of particular matters in this section shall not be taken to affect the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals.

1889 c. 63.

Short title,
commence-
ment and
extent.

60.—(1) This Act may be cited as the Firearms Act 1968.

(2) This Act shall come into force on 1st August 1968.

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

SCHEDULES

SCHEDULE 1

Section 17.

OFFENCES TO WHICH SECTION 17(2) APPLIES

1. Offences under any of the following provisions of the Malicious 1861 c. 97. Damage Act 1861:—
 - sections 1 to 8 (setting fire to buildings and other property);
 - sections 9 to 12 (blowing up buildings or destroying them by riotous action);
 - sections 14 and 15 (industrial sabotage);
 - sections 26 to 29 (sabotage of mines and machinery);
 - sections 33 to 38 (sabotage of public transport and communications);
 - section 54 (making or having explosives for destructive purpose).

2. Offences under any of the following provisions of the Offences 1861 c. 100. Against the Person Act 1861:—
 - sections 20 to 22 (inflicting bodily injury; garrotting; criminal use of stupefying drugs);
 - section 30 (laying explosive to building etc.);
 - section 32 (endangering railway passengers by tampering with track);
 - section 38 (assault with intent to commit felony or resist arrest);
 - section 47 (criminal assaults);
 - section 56 (child-stealing and abduction).

3. Offences under such of the provisions of section 4 of the Vagrancy 1824 c. 83. Act 1824 as are referred to in and amended by section 15 of the Prevention of Crimes Act 1871 and section 7 of the Penal Servitude 1871 c. 112. Act 1891 (suspected persons and reputed thieves being abroad with 1891 c. 69. criminal intent).

4. Offences under any of the following provisions of the Larceny 1916 c. 50. Act 1916:—
 - sections 2 to 4 (theft and its variants);
 - sections 12 to 15 (aggravated forms of larceny);
 - sections 24 to 27 (sacrilege, burglary and housebreaking);
 - section 28(2), (3) and (4) (going about at night as for burglary);
 - sections 29 and 30 (demanding with menaces).

5. Offences under section 51(1) of the Police Act 1964 or section 1964 c. 48. 41 of the Police (Scotland) Act 1967 (assaulting constable in execution 1967 c. 77. of his duty).

- SCH. 1
1956 c. 69. 6. Offences under any of the following provisions of the Sexual Offences Act 1956:—
 section 1 (rape);
 sections 17, 18 and 20 (abduction of women).
- 1960 c. 16. 7. Offences under section 217 of the Road Traffic Act 1960 (taking and driving away a motor vehicle).
8. Aiding or abetting the commission of any offence specified in paragraphs 1 to 7 of this Schedule.
- 1861 c. 97. 9. Attempting to commit any offence so specified, other than an offence under section 8 (arson of buildings), section 27 (arson of mines) or section 38 (sabotage of telegraphs) of the Malicious Damage Act 1861.

Sections 17, 18.

SCHEDULE 2

OFFENCES TO WHICH SECTIONS 17(2) AND 18 APPLY IN SCOTLAND

Common Law Offences

1. Abduction.
2. Administration of drugs with intent to enable or assist the commission of a crime.
3. Assault.
4. Housebreaking with intent to steal.
5. Malicious mischief.
6. Mobbing and rioting.
7. Perverting the course of justice.
8. Prison breaking and breaking into prison to rescue prisoners.
9. Rape.
10. Robbery.
11. Theft.
12. Use of threats with intent to extort money or property.
13. Wilful fireraising and culpable and reckless fireraising.

Statutory Offences

- 1824 c. 83.
1871 c. 112. 14. Offences against such of the provisions of section 4 of the Vagrancy Act 1824 as are extended to Scotland by section 15 of the Prevention of Crimes Act 1871.
- 1883 c. 3. 15. Offences against the third and fourth paragraphs of section 7 of the Prevention of Crimes Act 1871.
16. Offences against sections 2, 3 or 4 of the Explosive Substances Act 1883.

- | | |
|--|----------------------------|
| 17. Offences against section 217 of the Road Traffic Act 1960. | SCH. 2 |
| 18. Offences against section 41 of the Police (Scotland) Act 1967. | 1960 c. 16. 1967 c. 77. |

Attempts

19. Attempt to commit any of the offences mentioned in this Schedule.

SCHEDULE 3

Section 21.

JURISDICTION AND PROCEDURE ON APPLICATION
UNDER SECTION 21(6)

PART I

APPLICATION TO QUARTER SESSIONS (ENGLAND AND WALES)

1. The application shall be made to the court of quarter sessions having jurisdiction in the place where the applicant resides.

2. Notice of the application, signed by the applicant or by his agent on his behalf and stating the general grounds of the application, shall be given by him to the clerk of the peace and also to the chief officer of police for the area in which the applicant resides.

3. On receiving notice of the application the clerk of the peace shall enter the application and give notice to the applicant, and to the chief officer of police to whom the notice of the application is required by paragraph 2 of this Schedule to be given, of the date, time and place fixed for the hearing; but the date shall not be less than twenty-one clear days after the date when the clerk of the peace received the notice of the application.

4. The applicant may at any time, not less than two clear days before the date fixed for the hearing, abandon his application by giving notice in writing to the clerk of the peace and to the chief officer of police; and if he does so the court of quarter sessions (hereafter in this Schedule referred to as "the court") may order the applicant to pay to the chief officer of police such costs as appear to it to be just and reasonable in respect of expenses properly incurred by him in connection with the application before notice of abandonment was given to him.

5. The chief officer of police may appear and be heard on the hearing of the application.

6. The court may from time to time adjourn the hearing of the application.

7. On the determination of the application, the court may make such order as to payment of costs as it thinks fit, and may fix a sum to be paid by way of costs in lieu of directing a taxation thereof, and any costs ordered to be paid by the court may be recovered summarily as a civil debt and shall not be recoverable in any other manner:

Provided that the chief officer of police shall not under this paragraph be ordered to pay the costs of the applicant.

SCH. 3

PART II

APPLICATION TO SHERIFF (SCOTLAND)

8. The application shall be made to the sheriff within whose jurisdiction the applicant resides.

9. Not less than twenty-one days' notice of the application shall be given to the chief officer of police for the area in which the applicant resides.

Section 40.

SCHEDULE 4

PARTICULARS TO BE ENTERED BY FIREARMS DEALER
IN REGISTER OF TRANSACTIONS

1. The quantities and description of firearms and ammunition manufactured and the dates thereof.

2. The quantities and description of firearms and ammunition purchased or acquired with the names and addresses of the sellers or transferors and the dates of the several transactions.

3. The quantities and description of firearms and ammunition accepted for sale, repair, test, proof, cleaning, storage, destruction or other purpose, with the names and addresses of the transferors and the dates of the several transactions.

4. The quantities and description of firearms and ammunition sold and transferred with the names and addresses of the purchasers and transferees (except in cases where the purchasers are transferees), the areas in which firearms were issued and the dates of the several transactions.

5. The quantities and description of firearms and ammunition in possession for sale or transfer at the date of the last stocktaking or such other date in each year as may be specified in the register.

SCHEDULE 5

Section 44.

PROVISIONS AS TO APPEALS UNDER S. 44 OF THIS ACT

PART I

COURTS WITH JURISDICTION TO ENTERTAIN APPEAL

| Nature of appeal | Quarter sessions jurisdiction | Sheriff's jurisdiction |
|---|---|---|
| 1. Appeal under section 26(4), 29(2) or 30(3) (against refusal to grant or renew, or to vary, or against revocation of, a certificate). | The court having jurisdiction in the place where the appellant resides. | The sheriff within whose jurisdiction the appellant resides. |
| 2. Appeal under section 34(5) by a person aggrieved by the refusal of a chief officer of police to register him as a firearms dealer. | The court having jurisdiction in the place in which there is situated any place of business in respect of which the appellant has applied to be registered. | The sheriff within whose jurisdiction there is situated any place of business in respect of which the appellant has applied to be registered. |
| 3. Appeal under section 34(5) or 37(3) by a person aggrieved by the refusal of a chief officer of police to enter a place of business of his in the register. | The court having jurisdiction in the place in which there is situated the place of business to which the appeal relates. | The sheriff within whose jurisdiction there is situated the place of business to which the appeal relates. |
| 4. Appeal under section 36(3) (against imposition or variation of condition of registration, or refusal to vary or revoke such a condition). | The court having jurisdiction in the place in which is situated the appellant's place of business in respect of which the condition is in force. | The sheriff within whose jurisdiction is situated the appellant's place of business in respect of which the condition is in force. |
| 5. Appeal under section 38(7) by a person aggrieved by the removal of his name from the register. | The court having jurisdiction in the place in which is situated any place of business in respect of which the appellant has been registered. | The sheriff within whose jurisdiction there is situated any place of business in respect of which the appellant has been registered. |
| 6. Appeal under section 38(7) by a person aggrieved by the removal from the register of a place of business of his. | The court having jurisdiction in the place in which is situated the place of business to which the appeal relates. | The sheriff within whose jurisdiction is situated the place of business to which the appeal relates. |

SCH. 5

PART II

PROCEDURAL PROVISIONS FOR APPEAL TO QUARTER SESSIONS

1. Notice of an appeal, signed by the appellant or by his agent on his behalf and stating the general grounds of the appeal, shall be given by him to the clerk of the peace and also to the chief officer of police by whose decision the appellant is aggrieved.

2. A notice of appeal shall be given within twenty-one days after the date on which the appellant has received notice of the decision of the chief officer of police by which he is aggrieved.

3. On receiving notice of an appeal the clerk of the peace shall enter the appeal and give notice to the appellant and to the chief officer of police to whom the notice of the appeal is required by paragraph 1 of this Part of this Schedule to be given, of the date, time and place fixed for the hearing.

4. An appellant may at any time, not less than two clear days before the date fixed for the hearing, abandon his appeal by giving notice in writing to the clerk of the peace and to the chief officer of police; and if he does so the court of quarter sessions (hereafter referred to in this Schedule as "the court") may order the appellant to pay to the chief officer of police such costs as appear to it to be just and reasonable in respect of expenses properly incurred by him in connection with the appeal before notice of abandonment was given to him.

5. The chief officer of police may appear and be heard on the hearing of an appeal.

6. The court may from time to time adjourn the hearing of an appeal.

7. On the hearing of an appeal the court may either dismiss the appeal or give the chief officer of police such directions as it thinks fit as respects the certificate or register which is the subject of the appeal.

8. On the determination of an appeal the court may make such order as to payment of costs as it thinks fit, and may fix a sum to be paid by way of costs in lieu of directing a taxation thereof, and any costs ordered by the court to be paid may be recovered summarily as a civil debt and shall not be recoverable in any other manner.

PROSECUTION AND PUNISHMENT OF OFFENCES

PART I

TABLE OF PUNISHMENTS

| Section of this Act creating offence | General nature of offence | Mode of prosecution | Punishment | Additional provisions |
|--------------------------------------|--|--|--|--|
| Section 1(1) ... | Possessing etc. firearm or ammunition without firearm certificate. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. (i) where the offence is committed in an aggravated form within the meaning of section 4(4) of this Act, 5 years, or a fine; or both, (ii) in any other case, 3 years or a fine; or both. | Paragraph 1 of Part II of this Schedule applies. |
| Section 1(2) ... | Non-compliance with condition of firearm certificate. | Summary ... | 6 months or a fine of £200; or both. | Paragraph 1 of Part II of this Schedule applies. |
| Section 2(1) ... | Possessing, etc., shot gun without shot gun certificate. | Summary ... | 6 months or a fine of £200; or both. | Paragraph 1 of Part II of this Schedule applies. |
| Section 2(2) ... | Non-compliance with condition of shot gun certificate. | Summary ... | 6 months or a fine of £200; or both. | Paragraph 1 of Part II of this Schedule applies. |
| Section 3(1) ... | Trading in firearms without being registered as firearms dealer. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | Paragraph 1 of Part II of this Schedule applies. |
| Section 3(2) ... | Selling firearm to person without a certificate. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | Paragraph 1 of Part II of this Schedule applies. |

X

| Section of this Act creating offence | General nature of offence | Mode of prosecution | Punishment | Additional provisions |
|--------------------------------------|---|--|---|--|
| Section 3(3) | Repairing, testing etc. firearm for person without a certificate. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | |
| Section 3(5) | Falsifying certificate, etc., with view to acquisition of firearm. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine of £200; or both. | |
| Section 3(6) | Pawnbroker taking firearm in pawn. | Summary ... | 3 months or a fine of £20; or both. | |
| Section 4(1) (3) | Shortening a shot gun; conversion of firearms. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 5 years or a fine; or both. | |
| Section 5(1) | Possessing or distributing prohibited weapons or ammunition. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 5 years or a fine; or both. | |
| Section 5(5) | Non-compliance with condition of Defence Council authority. | Summary ... | 6 months or a fine of £200; or both. | |
| Section 5(6) | Non-compliance with requirement to surrender authority to possess, etc., prohibited weapon or ammunition. | Summary ... | A fine of £20. | |
| Section 6(3) | Contravention of order under s. 6 (or corresponding Northern Irish order) restricting removal of arms. | Summary ... | 3 months or, for each firearm or parcel of ammunition in respect of which the offence is committed, a fine of £20; or both. 6 months or a fine of £200; or both. | Paragraph 2 of Part II of this Schedule applies. |
| Section 7(2) | Making false statement in order to obtain police permit. | Summary ... | | |

| | | | | | |
|----------------|-----|--|---|---|--|
| Section 9(3) | ... | Making false statement in order to obtain permit for auction of firearms etc. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | |
| Section 13(2) | ... | Making false statement in order to obtain permit for removal of signalling apparatus. | Summary ... | 6 months or a fine of £200; or both. | |
| Section 16 ... | ... | Possession of firearm with intent to endanger life or injure property. | On indictment | 14 years or a fine; or, in England or Wales, both. | |
| Section 17(1) | ... | Use of firearms to resist arrest | On indictment | 14 years or a fine; or, in England or Wales, both. | Paragraphs 3 to 5 of this Schedule apply. |
| Section 17(2) | ... | Possessing firearm while committing an offence specified in Schedule 1 or, in Scotland, an offence specified in Schedule 2. | On indictment | 7 years or a fine; or, in England or Wales, both. | Paragraphs 3 and 6 of this Schedule apply. |
| Section 18(1) | ... | Carrying firearms or imitation firearm with intent to commit indictable offence (or, in Scotland, an offence specified in Schedule 2) or to resist arrest. | On indictment | 10 years or a fine; or, in England or Wales, both. | |
| Section 19 | ... | Carrying loaded firearm in public place. | (a) Summary ... (b) On indictment (but not if the firearm is an air weapon). | 6 months or a fine of £200; or both. 5 years or a fine; or both. | |
| Section 20(1) | ... | Trespassing with firearm in a building. | (a) Summary ... (b) On indictment (but not if the firearm is an air weapon). | 6 months or a fine of £200; or both. 5 years or a fine; or both. | |
| Section 20(2) | ... | Trespassing with firearm on land. | Summary ... | 3 months or a fine of £100; or both. | |

| Section of this Act creating offence | General nature of offence | Mode of prosecution | Punishment | Additional provisions |
|--------------------------------------|---|--|---|---|
| Section 21(4) ... | Contravention of provisions denying firearms to ex-prisoners and the like. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | |
| Section 21(5) ... | Supplying firearms to person denied them under section 21. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | |
| Section 22(1) ... | Person under 17 acquiring firearm. | Summary ... | 6 months or a fine of £200; or both. | |
| Section 22(2) ... | Person under 14 having firearm in his possession without lawful authority. | Summary ... | 6 months or a fine of £200; or both. | |
| Section 22(3) ... | Person under 15 having with him a shot gun without adult supervision. | Summary ... | A fine of £50 ... | Paragraph 8 of Part II of this Schedule applies. |
| Section 22(4) ... | Person under 14 having with him an air weapon or ammunition therefor. | Summary ... | A fine of £50 ... | Paragraphs 7 and 8 of Part II of this Schedule apply. |
| Section 22(5) ... | Person under 17 having with him an air weapon in a public place. | Summary ... | A fine of £50 ... | Paragraphs 7 and 8 of Part II of this Schedule apply. |
| Section 23(1) ... | Person under 14 making improper use of air weapon when under supervision; person supervising him permitting such use. | Summary ... | A fine of £50 ... | Paragraphs 7 and 8 of Part II of this Schedule apply. |
| Section 24(1) ... | Selling or letting on hire a firearm to person under 17. | Summary ... | 6 months or a fine of £200; or both. | |

| | | | | | | |
|----------------|-----|--|-------------|-----|--------------------------------------|---|
| Section 24(2) | ... | Supplying firearm or ammunition (being of a kind to which section 1 of this Act applies) to person under 14. | Summary ... | ... | 6 months or a fine of £200; or both. | Paragraph 9 of Part II of this Schedule applies. |
| Section 24(3) | ... | Making gift of shot gun to person under 15. | Summary ... | ... | A fine of £50 ... | Paragraphs 7 and 8 of Part II of this Schedule apply. |
| Section 24(4) | ... | Supplying air weapon to person under 14. | Summary ... | ... | A fine of £50. | |
| Section 25 ... | ... | Supplying firearm to person drunk or insane. | Summary ... | ... | 3 months or a fine of £20; or both. | |
| Section 26(5) | ... | Making false statement in order to procure grant or renewal of a firearm or shot gun certificate. | Summary ... | ... | 6 months or a fine of £200; or both. | |
| Section 29(3) | ... | Making false statement in order to procure variation of a firearm certificate. | Summary ... | ... | 6 months or a fine of £200; or both. | |
| Section 30(4) | ... | Failing to surrender certificate on revocation. | Summary ... | ... | A fine of £20. | |
| Section 38(8) | ... | Failure to surrender certificate of registration on removal of firearms dealer's name from register. | Summary ... | ... | A fine of £20. | |
| Section 39(1) | ... | Making false statement in order to secure registration or entry in register of a place of business. | Summary ... | ... | 6 months or a fine of £200; or both. | |
| Section 39(2) | ... | Registered firearms dealer having place of business not entered in the register. | Summary ... | ... | 6 months or a fine of £200; or both. | |

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| Section of this Act creating offence | General nature of offence | Mode of prosecution | Punishment | Additional provisions |
|--------------------------------------|---|--|---|--|
| Section 39(3) | Non-compliance with condition of registration. | Summary ... | 6 months or a fine of £200; or both. | |
| Section 40(5) | Non-compliance by firearms dealer with provisions as to register of transactions; making false entry in register. | Summary ... | 6 months or a fine of £200; or both. | |
| Section 42 | Failure to comply with instructions in firearm certificate when transferring firearm to person other than registered dealer; failure to report transaction to police. | (a) Summary ... (b) On indictment ... | 6 months or a fine of £200; or both. 3 years or a fine; or both. | |
| Section 47(2) | Failure to hand over firearm or ammunition on demand by constable. | Summary ... | 3 months, or a fine of £100; or both. | |
| Section 48(3) | Failure to comply with requirement of a constable that a person shall declare his name and address. | Summary ... | A fine of £20. | |
| Section 49(3) | Failure to give constable facilities for examination of firearms in transit, or to produce papers. | Summary ... | 3 months or, for each firearm or parcel of ammunition in respect of which the offence is committed, a fine of £20; or both. | Paragraph 2 of Part II of this Schedule applies. |
| Section 52(2)(c) | Failure to surrender firearm or shot gun certificate cancelled by court on conviction. | Summary ... | A fine of £20. | |

PART II

SCH. 6

SUPPLEMENTARY PROVISIONS AS TO TRIAL AND
PUNISHMENT OF OFFENCES

1. In Scotland, a contravention of section 1(1) or (2) or section 2(1) or (2) of this Act which, if it had been triable on indictment, could competently have been libelled as an additional or alternative charge in an indictment charging a person with an offence involving any injury or attempted injury of, or any threat or intent to injure, any person or property by the use or attempted use of a firearm, may, notwithstanding anything in those sections or in Part I of this Schedule, be so libelled and tried.
2. In the case of an offence against section 6(3) or 49(3) of this Act, the court before which the offender is convicted may, if the offender is the owner of the firearms or ammunition, make such order as to the forfeiture of the firearms or ammunition as the court thinks fit.
3. Where in England or Wales a person who has attained the age of seventeen is charged before a magistrates' court with an offence specified in Schedule 1 to the Magistrates' Courts Act 1952 and is also charged before that court with an offence under section 17(1) or (2) of this Act, then, notwithstanding anything in section 19 of the said Act of 1952, the court shall not proceed to the summary trial of the first-mentioned offence if the accused is committed for trial in respect of the offence under section 17(1) or (2) of this Act. 1952 c. 55.
4. Where a person commits an offence under section 17(1) of this Act in respect of the lawful arrest or detention of himself for any other offence committed by him, he shall be liable to the penalty provided by Part I of this Schedule in addition to any penalty to which he may be sentenced for the other offence.
5. If on the trial of a person for an offence under section 17(1) of this Act the jury are not satisfied that he is guilty of that offence but are satisfied that he is guilty of an offence under section 17(2), the jury may find him guilty of the offence under section 17(2) and he shall then be punishable accordingly.
6. The punishment to which a person is liable for an offence under section 17(2) of this Act shall be in addition to any punishment to which he may be liable for the offence first referred to in section 17(2).
7. The court by which a person is convicted of an offence under section 22(4) or (5), 23(1) or 24(4) of this Act may make such order as it thinks fit as to the forfeiture or disposal of the air weapon or ammunition in respect of which the offence was committed.
8. The court by which a person is convicted of an offence under section 22(3), (4) or (5), 23(1) or 24(4) may make such order as it thinks fit as to the forfeiture or disposal of any firearm or ammunition found in his possession.
9. The court by which a person is convicted of an offence under section 24(3) of this Act may make such order as it thinks fit as to the forfeiture or disposal of the shot gun or ammunition in respect of which the offence was committed.

Section 59.

SCHEDULE 7

REPEALS

| Chapter | Short Title | Extent of Repeal |
|---|---|--|
| 1 Edw. 8 & 1 Geo. 6. c. 12. | The Firearms Act 1937. | The whole Act. |
| 11 & 12 Geo. 6. c. 58. | The Criminal Justice Act 1948. | In Schedule 9, the entry relating to the Firearms Act 1937. |
| 12, 13 & 14 Geo. 6. c. 94. | The Criminal Justice (Scotland) Act 1949. | In Schedule 11, the entry relating to the Firearms Act 1937. |
| 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55. | The Magistrates' Courts Act 1952. | In Schedule 5, the entry relating to section 23(4) of the Fire- arms Act 1937. |
| 15 & 16 Geo. 6 & 1 Eliz. 2. c. 52. | The Prison Act 1952. | In Schedule 3, the entry relating to section 21(2) of the Fire- arms Act 1937. |
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 61. | The Prisons (Scotland) Act 1952. | In Schedule 3, the entry relating to section 21(2) of the Fire- arms Act 1937. |
| 4 & 5 Eliz. 2. c. 69. | The Sexual Offences Act 1956. | In Schedule 3, the entry relating to the Firearms Act 1937. |
| 10 & 11 Eliz. 2. c. 49. | The Air Guns and Shot Guns, etc. Act 1962. | The whole Act. |
| 1964 c. 48. | The Police Act 1964. | In Schedule 9, the entry relating to the Firearms Act 1937. |
| 1965 c. 44. | The Firearms Act 1965. | The whole Act. |
| 1966 c. 42. | The Local Government Act 1966. | In Part II of Schedule 3, the entry (numbered 19) relating to the Firearms Act 1937. |
| 1966 c. 51. | The Local Government (Scotland) Act 1966. | In Part II of Schedule 4, the entry (numbered 17) relating to the Firearms Act 1937. |
| 1967 c. 77. | The Police (Scotland) Act 1967. | In Schedule 4, the entry relating to the Firearms Act 1937. |
| 1967 c. 80. | The Criminal Justice Act 1967. | Part V (that is to say, sections 85 to 88). |



Wills Act 1968

1968 CHAPTER 28

An Act to restrict the operation of section 15 of the Wills Act 1837. [30th May 1968]

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

1.—(1) For the purposes of section 15 of the Wills Act 1837 (avoidance of gifts to attesting witnesses and their spouses) the attestation of a will by a person to whom or to whose spouse there is given or made any such disposition as is described in that section shall be disregarded if the will is duly executed without his attestation and without that of any other such person.

Restriction of operation of Wills Act 1837, s. 15.
1837 c. 26.

(2) This section applies to the will of any person dying after the passing of this Act, whether executed before or after the passing of this Act.

2.—(1) This Act may be cited as the Wills Act 1968.

Short title and extent.

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



Trade Descriptions Act 1968

1968 CHAPTER 29

An Act to replace the Merchandise Marks Acts 1887 to 1953 by fresh provisions prohibiting misdescriptions of goods, services, accommodation and facilities provided in the course of trade; to prohibit false or misleading indications as to the price of goods; to confer power to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements; to prohibit the unauthorised use of devices or emblems signifying royal awards; to enable the Parliament of Northern Ireland to make laws relating to merchandise marks; and for purposes connected with those matters. [30th May 1968]

BE IT ENACTED by the Queen'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:—

Prohibition of false trade descriptions

1.—(1) Any person who, in the course of a trade or business,— Prohibition of false trade descriptions.
 (a) applies a false trade description to any goods ; or
 (b) supplies or offers to supply any goods to which a false trade description is applied ;
 shall, subject to the provisions of this Act, be guilty of an offence.

(2) Sections 2 to 6 of this Act shall have effect for the purposes of this section and for the interpretation of expressions used in this section, wherever they occur in this Act.

Trade description.

2.—(1) A trade description is an indication, direct or indirect, and by whatever means given, of any of the following matters with respect to any goods or parts of goods, that is to say—

- (a) quantity, size or gauge ;
- (b) method of manufacture, production, processing or re-conditioning ;
- (c) composition ;
- (d) fitness for purpose, strength, performance, behaviour or accuracy ;
- (e) any physical characteristics not included in the preceding paragraphs ;
- (f) testing by any person and results thereof ;
- (g) approval by any person or conformity with a type approved by any person ;
- (h) place or date of manufacture, production, processing or reconditioning ;
- (i) person by whom manufactured, produced, processed or reconditioned ;
- (j) other history, including previous ownership or use.

(2) The matters specified in subsection (1) of this section shall be taken—

- (a) in relation to any animal, to include sex, breed or cross, fertility and soundness ;
- (b) in relation to any semen, to include the identity and characteristics of the animal from which it was taken and measure of dilution.

(3) In this section “ quantity ” includes length, width, height, area, volume, capacity, weight and number.

(4) Notwithstanding anything in the preceding provisions of this section, the following shall be deemed not to be trade descriptions, that is to say, any description or mark applied in pursuance of—

- 1920 c. 54. (a) the Seeds Act 1920 ;
- 1928 c. 19. (b) section 2 of the Agricultural Produce (Grading and Marking) Act 1928 (as amended by the Agricultural Produce (Grading and Marking) Amendment Act 1931) or any corresponding enactment of the Parliament of Northern Ireland ;
- 1931 c. 40.
- 1964 c. 14. (c) the Plant Varieties and Seeds Act 1964 ;
- 1964 c. 28. (d) the Agriculture and Horticulture Act 1964 ;
- 1965 c. 22 (N.I.). (e) the Seeds Act (Northern Ireland) 1965 ;
- 1966 c. 15 (N.I.). (f) the Horticulture Act (Northern Ireland) 1966 ;

1926 c. 45. any description applied in pursuance of the Fertilisers and Feeding Stuffs Act 1926 to an article included in the first column of Schedule 1 to that Act, and any mark prescribed by a system of classification compiled under section 5 of the Agriculture Act 1967.

1967 c. 22.

(5) Notwithstanding anything in the preceding provisions of this section, where provision is made under the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956 or the Food and Drugs Act (Northern Ireland) 1958 prohibiting the application of a description except to goods in the case of which the requirements specified in that provision are complied with, that description, when applied to such goods, shall be deemed not to be a trade description. 1955 c. 16
(4 & 5 Eliz. 2).
1956 c. 30.
1958 c. 27
(N.I.).

3.—(1) A false trade description is a trade description which is false to a material degree. False trade description.

(2) A trade description which, though not false, is misleading, that is to say, likely to be taken for such an indication of any of the matters specified in section 2 of this Act as would be false to a material degree, shall be deemed to be a false trade description.

(3) Anything which, though not a trade description, is likely to be taken for an indication of any of those matters and, as such an indication, would be false to a material degree, shall be deemed to be a false trade description.

(4) A false indication, or anything likely to be taken as an indication which would be false, that any goods comply with a standard specified or recognised by any person or implied by the approval of any person shall be deemed to be a false trade description, if there is no such person or no standard so specified, recognised or implied.

4.—(1) A person applies a trade description to goods if he— Applying a trade description to goods.

- (a) affixes or annexes it to or in any manner marks it on or incorporates it with—
 - (i) the goods themselves, or
 - (ii) anything in, on or with which the goods are supplied ; or
- (b) places the goods in, on or with anything which the trade description has been affixed or annexed to, marked on or incorporated with, or places any such thing with the goods ; or
- (c) uses the trade description in any manner likely to be taken as referring to the goods.

(2) An oral statement may amount to the use of a trade description.

(3) Where goods are supplied in pursuance of a request in which a trade description is used and the circumstances are such as to make it reasonable to infer that the goods are

supplied as goods corresponding to that trade description, the person supplying the goods shall be deemed to have applied that trade description to the goods.

Trade descriptions used in advertisements.

5.—(1) The following provisions of this section shall have effect where in an advertisement a trade description is used in relation to any class of goods.

(2) The trade description shall be taken as referring to all goods of the class, whether or not in existence at the time the advertisement is published—

(a) for the purpose of determining whether an offence has been committed under paragraph (a) of section 1(1) of this Act; and

(b) where goods of the class are supplied or offered to be supplied by a person publishing or displaying the advertisement, also for the purpose of determining whether an offence has been committed under paragraph (b) of the said section 1(1).

(3) In determining for the purposes of this section whether any goods are of a class to which a trade description used in an advertisement relates regard shall be had not only to the form and content of the advertisement but also to the time, place, manner and frequency of its publication and all other matters making it likely or unlikely that a person to whom the goods are supplied would think of the goods as belonging to the class in relation to which the trade description is used in the advertisement.

Offer to supply.

6. A person exposing goods for supply or having goods in his possession for supply shall be deemed to offer to supply them.

Power to define terms and to require display, etc. of information

Definition orders.

7. Where it appears to the Board of Trade—

(a) that it would be in the interest of persons to whom any goods are supplied; or

(b) that it would be in the interest of persons by whom any goods are exported and would not be contrary to the interest of persons to whom such goods are supplied in the United Kingdom;

that any expressions used in relation to the goods should be understood as having definite meanings, the Board may by order assign such meanings either—

(i) to those expressions when used in the course of a trade or business as, or as part of, a trade description applied to the goods; or

(ii) to those expressions when so used in such circumstances as may be specified in the order ;

and where such a meaning is so assigned to an expression it shall be deemed for the purposes of this Act to have that meaning when used as mentioned in paragraph (i) or, as the case may be, paragraph (ii) of this section.

8.—(1) Where it appears to the Board of Trade necessary or expedient in the interest of persons to whom any goods are supplied that the goods should be marked with or accompanied by any information (whether or not amounting to or including a trade description) or instruction relating to the goods, the Board may, subject to the provisions of this Act, by order impose requirements for securing that the goods are so marked or accompanied, and regulate or prohibit the supply of goods with respect to which the requirements are not complied with ; and the requirements may extend to the form and manner in which the information or instruction is to be given. Marking orders.

(2) Where an order under this section is in force with respect to goods of any description, any person who, in the course of any trade or business, supplies or offers to supply goods of that description in contravention of the order shall, subject to the provisions of this Act, be guilty of an offence.

(3) An order under this section may make different provision for different circumstances and may, in the case of goods supplied in circumstances where the information or instruction required by the order would not be conveyed until after delivery, require the whole or part thereof to be also displayed near the goods.

9.—(1) Where it appears to the Board of Trade necessary or expedient in the interest of persons to whom any goods are to be supplied that any description of advertisements of the goods should contain or refer to any information (whether or not amounting to or including a trade description) relating to the goods the Board may, subject to the provisions of this Act, by order impose requirements as to the inclusion of that information, or of an indication of the means by which it may be obtained, in such description of advertisements of the goods as may be specified in the order. Information, etc. to be given in advertisements.

(2) An order under this section may specify the form and manner in which any such information or indication is to be included in advertisements of any description and may make different provision for different circumstances.

(3) Where an advertisement of any goods to be supplied in the course of any trade or business fails to comply with any requirement imposed under this section, any person who publishes the advertisement shall, subject to the provisions of this Act, be guilty of an offence.

Provisions supplementary to sections 8 and 9.

10.—(1) A requirement imposed by an order under section 8 or section 9 of this Act in relation to any goods shall not be confined to goods manufactured or produced in any one country or any one of a number of countries or to goods manufactured or produced outside any one or more countries, unless—

- (a) it is imposed with respect to a description of goods in the case of which the Board of Trade are satisfied that the interest of persons in the United Kingdom to whom goods of that description are supplied will be sufficiently protected if the requirement is so confined; and
- (b) the Board of Trade are satisfied that the order is compatible with the international obligations of the United Kingdom.

(2) Where any requirements with respect to any goods are for the time being imposed by such an order and the Board of Trade are satisfied, on the representation of persons appearing to the Board to have a substantial interest in the matter, that greater hardship would be caused to such persons if the requirements continued to apply than is justified by the interest of persons to whom such goods are supplied, the power of the Board to relax or discontinue the requirements by a further order may be exercised without the consultation and notice required by section 38(3) of this Act.

Misstatements other than false trade descriptions

False or misleading indications as to price of goods.

11.—(1) If any person offering to supply goods of any description gives, by whatever means, any false indication to the effect that the price at which the goods are offered is equal to or less than—

- (a) a recommended price; or
- (b) the price at which the goods or goods of the same description were previously offered by him;

or is less than such a price by a specified amount, he shall, subject to the provisions of this Act, be guilty of an offence.

(2) If any person offering to supply any goods gives, by whatever means, any indication likely to be taken as an indication that the goods are being offered at a price less than that at which they are in fact being offered he shall, subject to the provisions of this Act, be guilty of an offence.

(3) For the purposes of this section—

- (a) an indication that goods were previously offered at a higher price or at a particular price—
 - (i) shall be treated as an indication that they were so offered by the person giving the indication, unless it is expressly stated that they were so offered by

others and it is not expressed or implied that they were, or might have been, so offered also by that person ; and

(ii) shall be treated, unless the contrary is expressed, as an indication that they were so offered within the preceding six months for a continuous period of not less than twenty-eight days ;

(b) an indication as to a recommended price—

(i) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended by the manufacturer or producer ; and

(ii) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended generally for supply by retail in the area where the goods are offered ;

(c) anything likely to be taken as an indication as to a recommended price or as to the price at which goods were previously offered shall be treated as such an indication ; and

(d) a person advertising goods as available for supply shall be taken as offering to supply them.

12.—(1) If any person, in the course of any trade or business, gives, by whatever means, any false indication, direct or indirect, that any goods or services supplied by him or any methods adopted by him are or are of a kind supplied to or approved by Her Majesty or any member of the Royal Family, he shall, subject to the provisions of this Act, be guilty of an offence. False representations as to royal approval or award, etc.

(2) If any person, in the course of any trade or business, uses, without the authority of Her Majesty, any device or emblem signifying the Queen's Award to Industry or anything so nearly resembling such a device or emblem as to be likely to deceive, he shall, subject to the provisions of this Act, be guilty of an offence.

13. If any person, in the course of any trade or business, gives, by whatever means, any false indication, direct or indirect, that any goods or services supplied by him are of a kind supplied to any person he shall, subject to the provisions of this Act, be guilty of an offence. False representations as to supply of goods or services.

14.—(1) It shall be an offence for any person in the course of any trade or business— False or misleading statements as to services etc.

(a) to make a statement which he knows to be false ; or

(b) recklessly to make a statement which is false ;

as to any of the following matters, that is to say,—

(i) the provision in the course of any trade or business of any services, accommodation or facilities ;

- (ii) the nature of any services, accommodation or facilities provided in the course of any trade or business ;
- (iii) the time at which, manner in which or persons by whom any services, accommodation or facilities are so provided ;
- (iv) the examination, approval or evaluation by any person of any services, accommodation or facilities so provided ; or
- (v) the location or amenities of any accommodation so provided.

(2) For the purposes of this section—

- (a) anything (whether or not a statement as to any of the matters specified in the preceding subsection) likely to be taken for such a statement as to any of those matters as would be false shall be deemed to be a false statement as to that matter ; and
- (b) a statement made regardless of whether it is true or false shall be deemed to be made recklessly, whether or not the person making it had reasons for believing that it might be false.

(3) In relation to any services consisting of or including the application of any treatment or process or the carrying out of any repair, the matters specified in subsection (1) of this section shall be taken to include the effect of the treatment, process or repair.

(4) In this section “false” means false to a material degree and “services” does not include anything done under a contract of service.

Orders defining terms for purposes of section 14.

15. Where it appears to the Board of Trade that it would be in the interest of persons for whom any services, accommodation or facilities are provided in the course of any trade or business that any expressions used with respect thereto should be understood as having definite meanings, the Board may by order assign such meanings to those expressions when used as, or as part of, such statements as are mentioned in section 14 of this Act with respect to those services, accommodation or facilities ; and where such a meaning is so assigned to an expression it shall be deemed for the purposes of this Act to have that meaning when so used.

Prohibition of importation of certain goods

Prohibition of importation of goods bearing false indication of origin.

16. Where a false trade description is applied to any goods outside the United Kingdom and the false indication, or one of the false indications, given, or likely to be taken as given, thereby is an indication of the place of manufacture, production, processing or reconditioning of the goods or any part thereof, the goods shall not be imported into the United Kingdom.

17. In the Trade Marks Act 1938 the following section shall be inserted after section 64:—

“ 64A.—(1) The person who is registered as the proprietor or registered user of a trade mark in respect of any goods may give notice in writing to the Commissioners of Customs and Excise (in this section referred to as the Commissioners)—

Restriction on importation of goods bearing infringing trade marks. 1938 c. 22.

- (a) that he is the proprietor or registered user of that trade mark, and
- (b) that such goods bearing the trade mark are expected to arrive in the United Kingdom at a time and place and by a consignment specified in the notice, and
- (c) that the use within the United Kingdom of the trade mark in relation to the goods would infringe the proprietor's exclusive right to that use, and
- (d) that he requests the Commissioners to treat the goods as prohibited goods.

(2) Where a notice has been given under this section in respect of any goods bearing a trade mark and has not been withdrawn and the requirements of any regulations made under this section are complied with, then, subject to the following provisions of this section, the importation into the United Kingdom of the goods shall, if the condition of paragraph (c) of the preceding subsection is satisfied, be deemed to be prohibited unless the importation is for the private and domestic use of the person importing the goods.

(3) The Commissioners may make regulations prescribing the form in which notices are to be given under this section, and requiring a person giving such a notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Commissioners with such evidence, and to comply with such other conditions (if any), as may be specified in the regulations, and any such regulations may include such incidental and supplementary provisions as the Commissioners consider expedient for the purposes of this section.

(4) Without prejudice to the generality of the preceding subsection, regulations made under that subsection may include provision for requiring a person who has given a notice under subsection (1) of this section, or a notice purporting to be a notice under that subsection,—

- (a) to pay such fees in respect of the notice as may be prescribed by the regulations ;
- (b) to give to the Commissioners such security as may be so prescribed, in respect of any liability or

expense which they may incur in consequence of the detention of any goods to which the notice relates, or in consequence of anything done in relation to goods so detained ;

(c) whether any such security is given or not, to keep the Commissioners indemnified against any such liability or expense as is mentioned in the preceding paragraph.

1952 c. 44.

(5) For the purposes of section 11 of the Customs and Excise Act 1952 (which relates to the disposal of duties) any fees paid in pursuance of regulations made under this section shall be treated as money collected on account of customs.

(6) Regulations under subsection (3) of this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Provisions as to offences

Penalty for offences.

18. A person guilty of an offence under this Act for which no other penalty is specified shall be liable—

(a) on summary conviction, to a fine not exceeding four hundred pounds ; and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

Time limit for prosecutions.

19.—(1) No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.

1952 c. 55.

(2) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, a magistrates' court may try an information for an offence under this Act if the information was laid at any time within twelve months from the commission of the offence.

1954 c. 48.

(3) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this section may be commenced at any time within twelve months from the time when the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.

(4) Subsections (2) and (3) of this section do not apply where—

(a) the offence was committed by the making of an oral statement ; or

- (b) the offence was one of supplying goods to which a false trade description is applied, and the trade description was applied by an oral statement; or
- (c) the offence was one where a false trade description is deemed to have been applied to goods by virtue of section 4(3) of this Act and the goods were supplied in pursuance of an oral request.

20.—(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by corporations.

(2) In this section “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 corporate.

21.—(1) Any person who, in the United Kingdom, assists in or induces the commission in any other country of an act in respect of goods which, if the act were committed in the United Kingdom, would be an offence under section 1 of this Act shall be guilty of an offence, except as provided by subsection (2) of this section, but only if either—

Accessories to offences committed abroad.

- (a) the false trade description concerned is an indication (or anything likely to be taken as an indication) that the goods or any part thereof were manufactured, produced, processed or reconditioned in the United Kingdom; or
- (b) the false trade description concerned—
 - (i) consists of or comprises an expression (or anything likely to be taken as an expression) to which a meaning is assigned by an order made by virtue of section 7(b) of this Act, and
 - (ii) where that meaning is so assigned only in circumstances specified in the order, the trade description is used in those circumstances.

(2) A person shall not be guilty of an offence under subsection (1) of this section if, by virtue of section 32 of this Act, the act, though committed in the United Kingdom, would not be an offence under section 1 of this Act had the goods been intended for despatch to the other country.

(3) Any person who, in the United Kingdom, assists in or induces the commission outside the United Kingdom of an act which, if committed in the United Kingdom, would be an offence under section 12 of this Act shall be guilty of an offence.

Restrictions
on institution
of proceedings
and
admission
of evidence.
1963 c. 31.
1967 c. 6
(N.I.).

22.—(1) Where any act or omission constitutes both an offence under this Act and an offence under any provision contained in or having effect by virtue of Part IV of the Weights and Measures Act 1963 or Part IV of the Weights and Measures Act (Northern Ireland) 1967—

- (a) proceedings for the offence shall not be instituted under this Act, except by virtue of section 23 thereof, without the service of such a notice as is required by subsection (2) of section 51 of the said Act of 1963 or, as the case may be, subsection (2) of section 33 of the said Act of 1967, nor after the expiration of the period mentioned in paragraph (c) of that subsection ; and
- (b) subsections (2), (3) and (5) to (7) of section 26 of the said Act of 1963 or, as the case may be, of section 20 of the said Act of 1967, shall, with the necessary modifications, apply as if the offence under this Act were an offence under Part IV of that Act or any instrument made thereunder.

(2) Where any act or omission constitutes both an offence under this Act and an offence under the food and drugs laws, evidence on behalf of the prosecution concerning any sample procured for analysis shall not be admissible in proceedings for the offence under this Act unless the relevant provisions of those laws have been complied with.

1955 c. 16
(4 & 5 Eliz. 2).
1956 c. 30.
1958 c. 27
(N.I.).

In this subsection “the food and drugs laws” means the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs Act (Northern Ireland) 1958 and any instrument made thereunder and “the relevant provisions” means—

- (a) in relation to the said Act of 1955, sections 93 and 97 and Part I of Schedule 7 ;
- (b) in relation to the said Act of 1956, sections 30 and 33 ; and
- (c) in relation to the said Act of 1958, sections 35 and 38 ; or any provision replacing any of the said provisions by virtue of section 123 of the said Act of 1955, section 56 of the said Act of 1956, or section 68 of the said Act of 1958.

(3) The Board of Trade may by order provide that in proceedings for an offence under this Act in relation to such goods as may be specified in the order (other than proceedings for an

offence falling within the preceding provisions of this section) evidence on behalf of the prosecution concerning any sample procured for analysis shall not be admissible unless the sample has been dealt with in such manner as may be specified in the order.

23. Where the commission by any person of an offence under this Act is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person. Offences due to fault of other person.

Defences

24.—(1) In any proceedings for an offence under this Act it shall, subject to subsection (2) of this section, be a defence for the person charged to prove— Defence of mistake, accident, etc.

- (a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(2) If in any case the defence provided by the last foregoing subsection involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(3) In any proceedings for an offence under this Act of supplying or offering to supply goods to which a false trade description is applied it shall be a defence for the person charged to prove that he did not know, and could not with reasonable diligence have ascertained, that the goods did not conform to the description or that the description had been applied to the goods.

25. In proceedings for an offence under this Act committed by the publication of an advertisement it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this Act. Innocent publication of advertisement.

*Enforcement*Enforcing
authorities.

1963 c. 31.

26.—(1) It shall be the duty of every local weights and measures authority to enforce within their area the provisions of this Act and of any order made under this Act; and section 37 of the Weights and Measures Act 1963 (power of local authorities to combine) shall apply with respect to the functions of such authorities under this Act as it applies with respect to their functions under that Act.

(2) Every local weights and measures authority shall, whenever the Board of Trade so direct, make to the Board a report on the exercise of their functions under this Act in such form and containing such particulars as the Board may direct.

(3) Where a complaint is made to the Board of Trade that all or any of the functions conferred by this Act on a local weights and measures authority are not being properly discharged in any area, or the Board are of opinion that an investigation should be made as to whether those functions are being properly discharged in any area, the Board may cause a local inquiry to be held, and—

1933 c. 51.

(a) in relation to such an inquiry in England or Wales, subsections (2) to (5) of section 290 of the Local Government Act 1933 (evidence and costs at local inquiries), but subsection (4) (costs of department) only in a case where the Board so direct, shall apply as if the inquiry were held in pursuance of subsection (1) of that section;

1947 c. 43.

(b) in relation to such an inquiry held in Scotland, subsections (2) to (9) of section 355 of the Local Government (Scotland) Act 1947 (provisions as to local inquiries) shall apply as if the inquiry were held in pursuance of subsection (1) of that section.

(4) The person appointed to hold an inquiry under the preceding subsection shall report the results thereof in writing to the Board of Trade, who shall publish the report together with such observations, if any, as they think fit to make thereon.

(5) Nothing in this section shall be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

Power to
make test
purchases.

27. A local weights and measures authority shall have power to make, or to authorise any of their officers to make on their behalf, such purchases of goods, and to authorise any of their officers to secure the provision of such services, accommodation or facilities, as may appear expedient for the purpose of determining whether or not the provisions of this Act and any order made thereunder are being complied with.

28.—(1) A duly authorised officer of a local weights and measures authority or of a Government department may, at all reasonable hours and on production, if required, of his credentials, exercise the following powers, that is to say,—

Power to enter premises and inspect and seize goods and documents.

- (a) he may, for the purpose of ascertaining whether any offence under this Act has been committed, inspect any goods and enter any premises other than premises used only as a dwelling ;
- (b) if he has reasonable cause to suspect that an offence under this Act has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in connection with a trade or business to produce any books or documents relating to the trade or business and may take copies of, or of any entry in, any such book or document ;
- (c) if he has reasonable cause to believe that an offence under this Act has been committed, he may seize and detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed ;
- (d) he may seize and detain any goods or documents which he has reason to believe may be required as evidence in proceedings for an offence under this Act ;
- (e) he may, for the purpose of exercising his powers under this subsection to seize goods, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act and of any order made thereunder are duly observed, require any person having authority to do so to break open any container or open any vending machine and, if that person does not comply with the requirement, he may do so himself.

(2) An officer seizing any goods or documents in the exercise of his powers under this section shall inform the person from whom they are seized and, in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being the proprietor's or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

(3) If a justice of the peace, on sworn information in writing—

(a) is satisfied that there is reasonable ground to believe either—

(i) that any goods, books or documents which a duly authorised officer has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under this Act ; or

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(ii) that any offence under this Act has been, is being or is about to be committed on any premises ; and

(b) is also satisfied either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier ; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return.

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of a local weights and measures authority or of a Government department to enter the premises, if need be by force.

In the application of this subsection to Scotland, “justice of the peace” shall be construed as including a sheriff and a magistrate.

(4) An officer entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary ; and on leaving any premises which he has entered by virtue of a warrant under the preceding subsection he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

(5) If any person discloses to any person—

(a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this section ; or

(b) any information obtained by him in pursuance of this Act ;

he shall be guilty of an offence unless the disclosure was made in or for the purpose of the performance by him or any other person of functions under this Act.

(6) If any person who is not a duly authorised officer of a local weights and measures authority or of a Government department purports to act as such under this section he shall be guilty of an offence.

(7) Nothing in this section shall be taken to compel the production by a solicitor of a document containing a privileged communication made by or to him in that capacity or to authorise the taking of possession of any such document which is in his possession.

29.—(1) Any person who—

- (a) wilfully obstructs an officer of a local weights and measures authority or of a Government department acting in pursuance of this Act ; or
- (b) wilfully fails to comply with any requirement properly made to him by such an officer under section 28 of this Act ; or
- (c) without reasonable cause fails to give such an officer so acting any other assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Act,

Obstruction of
authorised
officers.

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

(2) If any person, in giving any such information as is mentioned in the preceding subsection, makes any statement which he knows to be false, he shall be guilty of an offence.

(3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

30.—(1) Where any goods seized or purchased by an officer in pursuance of this Act are submitted to a test, then—

Notice of test
and intended
prosecution.

- (a) if the goods were seized, the officer shall inform the person mentioned in section 28(2) of this Act of the result of the test ;
- (b) if the goods were purchased and the test leads to the institution of proceedings for an offence under this Act, the officer shall inform the person from whom the goods were purchased, or, in the case of goods sold through a vending machine, the person mentioned in section 28(2) of this Act, of the result of the test ;

and shall, where as a result of the test proceedings for an offence under this Act are instituted against any person, allow him to have the goods tested on his behalf if it is reasonably practicable to do so.

(2) No proceedings for an offence under this Act, other than an offence under section 28(5) or 29, shall be instituted by a local weights and measures authority unless they have given to the Board of Trade notice of the intended proceedings and either a period of twenty-eight days has elapsed since the giving of the notice or the Board of Trade have before the end of that period issued a certificate under this section.

(3) A notice under subsection (2) of this section must be accompanied by a summary of the facts on which the charges are to be founded.

(4) A certificate of the Board of Trade that a notice under subsection (2) of this section was given on a date specified in the certificate and was accompanied by the summary required

under subsection (3) of this section shall be conclusive evidence that the notice was given on that date and was accompanied by such a summary; and any document purporting to be such a certificate and to be signed on behalf of the Board shall be deemed such a certificate, unless the contrary is shown.

Evidence by
certificate.

31.—(1) The Board of Trade may by regulations provide that certificates issued by such persons as may be specified by the regulations in relation to such matters as may be so specified shall, subject to the provisions of this section, be received in evidence of those matters in any proceedings under this Act.

(2) Such a certificate shall not be received in evidence—

- (a) unless the party against whom it is to be given in evidence has been served with a copy thereof not less than seven days before the hearing; or
- (b) if that party has, not less than three days before the hearing, served on the other party a notice requiring the attendance of the person issuing the certificate.

(3) In any proceedings under this Act in Scotland, a certificate received in evidence by virtue of this section or, where the attendance of a person issuing a certificate is required under subsection (2)(b) of this section, the evidence of that person, shall be sufficient evidence of the matters stated in the certificate.

(4) For the purposes of this section any document purporting to be such a certificate as is mentioned in this section shall be deemed to be such a certificate unless the contrary is shown.

(5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Miscellaneous and supplemental

32. In relation to goods which are intended—

- (a) for despatch to a destination outside the United Kingdom and any designated country within the meaning of section 21(5)(b) of the Weights and Measures Act 1963 or section 15(5)(b) of the Weights and Measures Act (Northern Ireland) 1967; or
- (b) for use as stores within the meaning of the Customs and Excise Act 1952 in a ship or aircraft on a voyage or flight to an eventual destination outside the United Kingdom; or
- (c) for use by Her Majesty's forces or by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952; or
- (d) for industrial or constructional use within the meaning of the Weights and Measures Act 1963 or the Weights and Measures Act (Northern Ireland) 1967;

Power to
exempt goods
sold for
export, etc.
1963 c. 31.
1967 c. 6 (N.I.).

1952 c. 44.

1952 c. 67.

1967 c. 6 (N.I.).

section 1 of this Act shall apply as if there were omitted from the matters included in section 2(1) of this Act those specified in paragraph (a) thereof; and, if the Board of Trade by order specify any other of those matters for the purposes of this section with respect to any description of goods, the said section 1 shall apply, in relation to goods of that description which are intended for despatch to a destination outside the United Kingdom and such country (if any) as may be specified in the order, as if the matters so specified were also omitted from those included in the said section 2(1).

33.—(1) Where, in the exercise of his powers under section 28 of this Act, an officer of a local weights and measures authority or of a Government department seizes and detains any goods and their owner suffers loss by reason thereof or by reason that the goods, during the detention, are lost or damaged or deteriorate, then, unless the owner is convicted of an offence under this Act committed in relation to the goods, the authority or department shall be liable to compensate him for the loss so suffered. Compensation for loss, etc. of goods seized under s. 28.

(2) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration and, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

34. The fact that a trade description is a trade mark, or part of a trade mark, within the meaning of the Trade Marks Act 1938 does not prevent it from being a false trade description when applied to any goods, except where the following conditions are satisfied, that is to say— Trade marks containing trade descriptions. 1938 c. 22.

- (a) that it could have been lawfully applied to the goods if this Act had not been passed; and
- (b) that on the day this Act is passed the trade mark either is registered under the Trade Marks Act 1938 or is in use to indicate a connection in the course of trade between such goods and the proprietor of the trade mark; and
- (c) that the trade mark as applied is used to indicate such a connection between the goods and the proprietor of the trade mark or a person registered under section 28 of the Trade Marks Act 1938 as a registered user of the trade mark; and
- (d) that the person who is the proprietor of the trade mark is the same person as, or a successor in title of, the proprietor on the day this Act is passed.

35. A contract for the supply of any goods shall not be void or unenforceable by reason only of a contravention of any provision of this Act. Saving for civil rights.

Country of
origin.

36.—(1) For the purposes of this Act goods shall be deemed to have been manufactured or produced in the country in which they last underwent a treatment or process resulting in a substantial change.

(2) The Board of Trade may by order specify—

- (a) in relation to any description of goods, what treatment or process is to be regarded for the purposes of this section as resulting or not resulting in a substantial change ;
- (b) in relation to any description of goods different parts of which were manufactured or produced in different countries, or of goods assembled in a country different from that in which their parts were manufactured or produced, in which of those countries the goods are to be regarded for the purposes of this Act as having been manufactured or produced.

Market
research
experiments.

37.—(1) In this section “ market research experiment ” means any activities conducted for the purpose of ascertaining the opinion of persons (in this section referred to as “ participants ”) of—

- (a) any goods ; or
- (b) anything in, on or with which the goods are supplied ; or
- (c) the appearance or any other characteristic of the goods or of any such thing ; or
- (d) the name or description under which the goods are supplied.

(2) This section applies to any market research experiment with respect to which the following conditions are satisfied, that is to say,—

- (a) that any participant to whom any goods are supplied in the course of the experiment is informed, at or before the time at which they are supplied to him, that they are supplied for such a purpose as is mentioned in subsection (1) of this section, and
- (b) that no consideration in money or money’s worth is given by a participant for the goods or any goods supplied to him for comparison.

(3) Neither section 1 nor section 8 of this Act shall apply in relation to goods supplied or offered to be supplied, whether to a participant or any other person, in the course of a market research experiment to which this section applies.

Orders.

38.—(1) Any power to make an order under the preceding provisions of this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a

resolution of either House of Parliament, and includes power to vary or revoke such an order by a subsequent order.

(2) Any order under the preceding provisions of this Act which relates to any agricultural, horticultural or fishery produce, whether processed or not, food, feeding stuffs or ingredients of food or feeding stuffs, fertilisers or any goods used as pesticides or for similar purposes shall be made by the Board of Trade acting jointly with the following Ministers, that is to say, if the order extends to England and Wales, the Minister of Agriculture, Fisheries and Food, and if it extends to Scotland or Northern Ireland, the Secretary of State concerned.

(3) The following provisions shall apply to the making of an order under section 7, 8, 9, 15 or 36 of this Act, except in the case mentioned in section 10(2) thereof, that is to say—

- (a) before making the order the Board of Trade shall consult with such organisations as appear to them to be representative of interests substantially affected by it and shall publish, in such manner as the Board think appropriate, notice of their intention to make the order and of the place where copies of the proposed order may be obtained ; and
- (b) the order shall not be made until the expiration of a period of twenty-eight days from the publication of the notice and may then be made with such modifications (if any) as the Board of Trade think appropriate having regard to any representations received by them.

39.—(1) The following provisions shall have effect, in addition Interpretation. to sections 2 to 6 of this Act, for the interpretation in this Act of expressions used therein, that is to say,—

- “advertisement” includes a catalogue, a circular and a price list ;
- “goods” includes ships and aircraft, things attached to land and growing crops ;
- “premises” includes any place and any stall, vehicle, ship or aircraft ; and
- “ship” includes any boat and any other description of vessel used in navigation.

(2) For the purposes of this Act, a trade description or statement published in any newspaper, book or periodical or in any film or sound or television broadcast shall not be deemed to be a trade description applied or statement made in the course of a trade or business unless it is or forms part of an advertisement.

Provisions as
to Northern
Ireland.

40.—(1) This Act shall apply to Northern Ireland subject to the following modifications, that is to say—

1952 c. 55.

(a) section 19(2) shall apply as if for the references to section 104 of the Magistrates' Courts Act 1952 and the trial and laying of an information there were substituted respectively references to section 34 of the Magistrates' Courts Act (Northern Ireland) 1964 and the hearing and determination and making of a complaint;

1964 c. 21
(N.I.).

(b) section 26 and subsections (2) to (4) of section 30 shall not apply but it shall be the duty of the Ministry of Commerce for Northern Ireland to enforce the provisions of this Act and of any order made under it (other than the provisions of section 42 of this Act);

(c) sections 27 to 29 and 33 shall apply as if for references to a local weights and measures authority and any officer of such an authority there were substituted respectively references to the said Ministry and any of its officers.

1920 c. 67.

(2) In paragraph (13) of section 4(1) of the Government of Ireland Act 1920 (which excludes, among other things, merchandise marks from the matters with respect to which the Parliament of Northern Ireland has power to make laws) the words "merchandise marks" shall be omitted and shall be deemed never to have been included; but the following provisions of this section shall (in addition to any other limitation) apply with respect to the powers of that Parliament to make laws for purposes similar to those of this Act.

(3) The Parliament of Northern Ireland shall not have power to make provision requiring any information as to the country of manufacture or production of any goods to be marked on or to accompany the goods or to be included in advertisements except—

(a) in the case of any agricultural, horticultural or fishery produce, whether processed or not, which for the purposes of this Act is deemed to have been produced or manufactured in Northern Ireland; or

(b) if the provision is made for the purpose of preventing or controlling the introduction into Northern Ireland, or the spreading within Northern Ireland, of diseases or pests affecting animals or plants.

(4) If the Parliament of Northern Ireland enacts any law for purposes similar to those of section 7 or section 15 of this Act, any provision of or made in pursuance of that law which would

be inconsistent with any provision made (whether before or after the first-mentioned provision) under either of those sections shall be void so far as it would be so inconsistent.

(5) The Board of Trade shall for each financial year pay into the Exchequer of Northern Ireland such sum as the Board and the Ministry of Commerce for Northern Ireland may agree to be appropriate as representing the expenses incurred by that Ministry in enforcing so much of this Act as relates to matters with respect to which the Parliament of Northern Ireland does not have power to make laws.

(6) Nothing in this Act shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament.

(7) This Act, so far as it relates to matters with respect to which the Parliament of Northern Ireland has power to make laws, shall be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day appointed for the purposes of that section. 1920 c. 67.

41.—(1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments specified in that Schedule. Consequential amendments and repeals.

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

42.—(1) Until the end of the period of three years beginning with the commencement of this Act the repeals made by this Act shall not affect— Continuation, for three years, of Orders in Council requiring indication of origin. 1926 c. 53.

(a) any Order in Council made under section 2 of the Merchandise Marks Act 1926, or the prohibition on the importation of any goods required by such an Order to bear an indication of origin at the time of importation, or

(b) the powers conferred by section 9 of that Act on local authorities and their officers with respect to goods to which such an Order applies ;

and a person who contravenes the provisions of such an Order shall, subject to the provisions of this Act, be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds, and in the case of a second or subsequent conviction to a fine not exceeding twenty pounds.

(2) Nothing in this Act shall be taken to affect the meaning of the expression "indication of origin" in any such Order in Council.

(3) Her Majesty may by Order in Council vary or revoke any Order in Council made under the said section 2.

(4) Where any requirements with respect to any goods are for the time being imposed by an Order in Council made under the said section 2 and the Board of Trade are satisfied, on the representation of persons appearing to the Board to have a substantial interest in the matter, that the continued application of any of those requirements has caused or is likely to cause injury or hardship to such persons, or any of them, the Board may by statutory instrument direct that the Order, or any particular provisions of the Order, shall cease to apply to those goods or shall apply to such goods subject only to such modifications and conditions as the Board think fit; and where such a direction is in force the Order shall have effect subject to the direction.

(5) Any direction under this section which relates to goods of any description mentioned in subsection (2) of section 38 of this Act shall be given by the Board of Trade acting jointly as mentioned in that subsection.

(6) A direction under this section, if not given for a shorter period or withdrawn earlier, shall cease to be in force at whichever of the following dates is the earlier, that is to say, twelve months after the date on which it was given or the date on which an Order in Council under this section varying the Order with respect to which the direction was given comes into force.

(7) The Board of Trade shall publish any direction given under this section in such manner as they think appropriate.

(8) A draft of any Order in Council to be made under this section shall be laid before Parliament.

(9) The duty of local weights and measures authorities under section 26 of this Act to enforce the provisions of this Act shall not extend to the provisions of this section.

Short title and
commence-
ment.

43.—(1) This Act may be cited as the Trade Descriptions Act 1968.

(2) This Act shall come into force on the expiration of the period of six months beginning with the day on which it is passed.

SCHEDULES

SCHEDULE 1

Section 41(1).

CONSEQUENTIAL AMENDMENTS

1. In section 1 of the Anglo-Portuguese Commercial Treaty Act 1914 for the words "the Merchandise Marks Act 1887" there shall be substituted the words "the Trade Descriptions Act 1968". 1914 c. 1 (5 & 6 Geo. 5). 1887 c. 28.

2. In section 1(1) of the Anglo-Portuguese Commercial Treaty Act 1916 for the words "the Merchandise Marks Act 1887" there shall be substituted the words "the Trade Descriptions Act 1968". 1916 c. 39.

3. In section 4(2) of the Agricultural Produce (Grading and Marking) Act 1928, after the words "indication of origin" there shall be inserted the words "or an order under section 8 of the Trade Descriptions Act 1968 is in force imposing requirements for securing that such eggs are marked with or accompanied by such an indication". 1928 c. 19.

4.—(1) In section 47(1) of the Road Traffic Act 1962 for the words from "and the use" to the end of the subsection there shall be substituted the words "and any markings so designated shall be deemed for the purposes of the Trade Descriptions Act 1968 to be a trade description, whether or not the markings fall within the definition of that expression in section 2 of that Act". 1962 c. 59.

(2) In subsection (2) of that section for the words from "offence" to "1887" there shall be substituted the words "offence under the Trade Descriptions Act 1968".

SCHEDULE 2

Section 41(2).

REPEALS

| Chapter | Short Title | Extent of Repeal |
|------------------------|--|---|
| 50 & 51 Vict. c. 28. | The Merchandise Marks Act 1887. | The whole Act. |
| 54 Vict. c. 15. | The Merchandise Marks Act 1891. | The whole Act. |
| 57 & 58 Vict. c. 19. | The Merchandise Marks (Prosecutions) Act 1894. | The whole Act. |
| 3 Edw. 7. c. 31. | The Board of Agriculture and Fisheries Act 1903. | Section 1(8). |
| 9 Edw. 7. c. 21. | The Irish Handloom Weavers Act 1909. | The whole Act. |
| 1 & 2 Geo. 5. c. 31. | The Merchandise Marks Act 1911. | The whole Act. |
| 10 & 11 Geo. 5. c. 67. | The Government of Ireland Act 1920. | In section 4, in paragraph (13), the words "merchandise marks". |
| 16 & 17 Geo. 5. c. 53. | The Merchandise Marks Act 1926. | The whole Act. |

Y* 2

SCH. 2

| Chapter | Short Title | Extent of Repeal |
|----------------------------|---|--|
| 1 & 2 Geo. 6. c. 29. | The Patents &c. (International Conventions) Act 1938. | Section 10, and in section 12, subsection (6). |
| 1 & 2 Eliz. 2. c. 48. | The Merchandise Marks Act 1953. | The whole Act. |
| 10 & 11 Eliz. 2. c. 59. | The Road Traffic Act 1962. | Section 47(3). |
| 1964 c. 14. | The Plant Varieties and Seeds Act 1964. | Section 31(2). |
| 1964 c. 28. | The Agriculture and Horticulture Act 1964. | Section 22(2). |
| 1965 c. 22 (N.I.). | The Seeds Act (Northern Ireland) 1965. | Section 15(2). |



Air Corporations Act 1968

1968 CHAPTER 30

An Act to raise the limits imposed by section 22 of the Air Corporations Act 1967 on the amounts which the British European Airways Corporation may borrow; to authorise the Corporation to borrow from the Board of Trade for the purpose of financing deficits on revenue account and in order to repay sums borrowed for that purpose; and for purposes connected with the matters aforesaid. [30th May 1968]

BE IT ENACTED by the Queen'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) In section 22(1) of the Air Corporations Act 1967 (which, subject to certain exceptions, limits the aggregate amount which may be outstanding in respect of the principal of any moneys borrowed by the Corporation to £110 million or such greater sum, not exceeding £125 million, as the Board of Trade may by order specify), for the words “£110 million or such greater sum, not exceeding £125 million” there shall be substituted the words “£210 million or such greater sum, not exceeding £240 million”.

Borrowing powers of Corporation.
1967 c. 33.

(2) Subject to the limits imposed by the foregoing subsection, the Corporation may borrow from the Board of Trade sums required for financing any accumulated deficit of the Corporation on revenue account which has accrued at any time before the end of March 1970 (but only to the extent to which the deficit does not exceed £10 million) and sums required for repaying any money borrowed by the Corporation under the foregoing provisions of this subsection; and the reference to the Corporation's borrowing powers in section 8(1) of the said Act of 1967

(which authorises Government loans) shall include a reference to the Corporation's powers under this subsection.

(3) In this section "the Corporation" means the British European Airways Corporation.

Citation.

2.—(1) This Act may be cited as the Air Corporations Act 1968.

(2) This Act and the Air Corporations Act 1967 may be cited together as the Air Corporations Acts 1967 and 1968.



Housing (Financial Provisions) (Scotland) Act 1968

1968 CHAPTER 31

An Act to consolidate certain enactments relating to the giving of financial assistance towards the provision or improvement of housing accommodation in Scotland, and to other financial matters connected therewith.

[30th May 1968]

BE IT ENACTED by the Queen'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

FINANCIAL ASSISTANCE IN RESPECT OF HOUSING ACCOMMODATION PROVIDED OR IMPROVED BY LOCAL AUTHORITIES AND OTHER BODIES

Exchequer contributions for new houses

1.—(1) The provisions of sections 1 to 12 of this Act shall have effect with respect to assistance to local authorities and other bodies mentioned in subsection (2) of this section (hereinafter referred to as “recipient authorities”) towards the expenditure incurred by them in the provision of new houses approved for the purposes of this section by the Secretary of State (hereinafter referred to as “approved houses”).

Exchequer contributions towards provision of new houses.

(2) The houses that may be approved for the purposes of this section are new houses which are—

- (a) provided by a local authority in the exercise of their powers to provide housing accommodation, or
- (b) provided by a development corporation otherwise than in pursuance of authorised arrangements made with a local authority, or

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- (c) provided by a development corporation in pursuance of authorised arrangements made with a local authority, or
- (d) provided by a housing association in pursuance of authorised arrangements made with a local authority or special arrangements made with the Secretary of State, or
- (e) provided by the Scottish Special Housing Association in any of the circumstances specified in paragraph (a) or paragraph (b) or paragraph (c) of subsection (3) of this section ;

and in respect of which proposals for their provision were or are submitted to the Secretary of State for his approval—

- (i) in the case of proposals submitted by a local authority in respect of houses which would have been eligible for Exchequer contributions calculated in accordance with section 2, or paragraph (a) or paragraph (b) of section 3(4), of the Housing (Scotland) Act 1962 had the Housing (Financial Provisions, &c.) (Scotland) Act 1967 (other than section 16(1) thereof and Part I of Schedule 5 thereto) and this Act not been passed, on or after 1st January 1965 ; and
- (ii) in any other case, on or after 25th November 1965.

(3) The circumstances referred to in subsection (2)(e) of this section are that the houses are provided—

- (a) in the district of any local authority as respects which the Secretary of State is satisfied—
 - (i) that there is an urgent need for more housing accommodation which will be met only if such accommodation is provided by the local authority or the Scottish Special Housing Association, and
 - (ii) that all accommodation so required cannot be provided by the local authority without imposing an unreasonably heavy rate burden or necessitating the charging of unreasonably high rents for that accommodation and other accommodation provided by the authority ; or

(b) in pursuance of arrangements such as are mentioned in section 8(1) of the Housing and Town Development (Scotland) Act 1957 (provision of housing accommodation in relief of over-populated districts) ; or

(c) in the district of any local authority in accordance with arrangements made with the approval of the Secretary of State as being desirable by reason of special circumstances for the provision of housing accommodation

1962 c. 28.
1967 c. 20.

1957 c. 38.

in any area for persons coming to that area in order to meet the urgent needs of industry, and so coming wholly, or, in the case of the council of a county (other than a county of a city), wholly or partly, from outside the district of the authority.

(4) Any Exchequer contribution under this Part of this Act payable in respect of any approved house or in respect of the cost of any approved house or in respect of the cost of the site of any approved house shall be paid to the recipient authority by whom the house was provided, except that where it was provided by a development corporation or a housing association in pursuance of authorised arrangements made with a local authority the Exchequer contribution shall be paid to the local authority, who shall pay to the development corporation or housing association, as the case may be, by way of annual grant an amount not less than the said Exchequer contribution.

Exchequer contributions for aggregate cost of approved houses

2.—(1) In respect of the aggregate cost, ascertained in accordance with the provisions of this Act, of the approved houses provided by each recipient authority and completed in any financial year, so far as that cost is approved by the Secretary of State for the purposes of this section, the Secretary of State shall pay for each of the sixty years beginning with that financial year an Exchequer contribution of an amount calculated in accordance with the following provisions of this section.

Aggregate cost
contributions.

(2) An amount equal to the aggregate cost so far as approved as aforesaid shall be assumed to have been raised by a loan repayable over a period of sixty years in equal half-yearly instalments of principal and interest combined, the first instalment falling due six months after the loan was raised, and there shall be calculated the amount of such an instalment at a rate of interest specified in an order made by the Secretary of State in respect of the financial year in which the houses were completed ; and the amount of the Exchequer contribution shall be twice the amount by which the amount of such an instalment calculated at that rate would exceed the amount of such an instalment calculated at the rate of four per cent. per annum.

(3) The rate so specified in respect of any financial year shall be such as appears to the Secretary of State, after consultation with recipient authorities or such associations thereof as appear to him to be concerned, to be representative of the rates of interest paid on loans raised by recipient authorities in the preceding financial year ; and different rates may be so specified in relation to the different kinds of recipient authority mentioned in section 1(2) of this Act and also in relation to different classes of local authority.

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(4) Where the approved houses provided by a recipient authority (other than a local authority) and completed in a financial year include both—

- (a) houses provided in pursuance of authorised arrangements made with a local authority ; and either
- (b) houses provided in pursuance of authorised arrangements made with another local authority, or
- (c) houses provided otherwise than in pursuance of such arrangements ;

a separate Exchequer contribution shall be paid in respect of the aggregate cost of the houses provided as mentioned in each of the paragraphs of this subsection.

(5) The power to make orders under this section shall be exercisable by statutory instrument, and such an order shall not be made unless a draft thereof has been laid before the Commons House of Parliament and has been approved by a resolution of that House.

Ascertainment
of aggregate
cost.

3.—(1) Subject to the provisions of this section, the aggregate cost of any houses shall be taken for the purposes of this Act to be the cost incurred by the recipient authority in providing the houses.

(2) So much of that cost as is attributable to the acquisition of any site shall be ascertained in accordance with Schedule 1 to this Act.

(3) The remainder of the said cost, so far as it was not known at the time the proposals referred to in section 1(2) of this Act were approved, shall be taken to be what it was then estimated to be.

(4) Any apportionment necessary to arrive at the said aggregate cost shall be made in such manner as the Secretary of State may determine.

Additional Exchequer contributions for individual houses

Exchequer
contributions
for flats in
blocks of six
or more
storeys.

4. In respect of each approved house provided in a block of flats the major part of which, as determined by the Secretary of State, is of six or more storeys (inclusive of any storey constructed for use for purposes other than those of a dwelling), the Secretary of State shall pay for each of the sixty years beginning with the financial year in which the house was completed an Exchequer contribution of thirty pounds.

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5. In respect of each approved house provided by a local authority (being an authority with special financial difficulties), the Secretary of State shall pay for each of the sixty years beginning with the financial year in which the house was completed any Exchequer contribution which may be determined in accordance with Schedule 2 to this Act to be payable to that authority.

Exchequer contributions for houses provided by local authorities with special financial difficulties.

6. Where the Secretary of State is satisfied, on an application made to him by a recipient authority with respect to any house which the authority have provided or intend to provide, that the cost of providing the house has been or will be substantially enhanced by expenses attributable to the acquisition of rights of support, or otherwise attributable to measures taken by them for securing protection against the consequences of a subsidence of the site, then, if the house is or becomes an approved house, the Secretary of State may pay in respect thereof for each of the sixty years beginning with the financial year in which it was completed an Exchequer contribution of such amount not exceeding two pounds as the Secretary of State may determine.

Exchequer contributions for houses where rights of support, etc., enhance cost.

7. Where the Secretary of State is satisfied, on an application made to him by a recipient authority with respect to any house which the authority have provided or intend to provide, that the cost of providing the house has been or will be substantially enhanced by expenses attributable to measures taken by them with his consent in the erection of the house (whether by the use of stone or other special material or in any other way) in order to preserve the character of the surroundings, then, if the house is or becomes an approved house, the Secretary of State may pay in respect thereof for each of the sixty years beginning with the financial year in which it was completed an Exchequer contribution of such amount not exceeding ten pounds as the Secretary of State may determine.

Exchequer contributions for houses where measures to preserve character of surroundings enhance cost.

8.—(1) Where an approved house is provided—

- (a) by a local authority in pursuance of any overspill agreement within the meaning of Part II of the Housing and Town Development (Scotland) Act 1957, or
- (b) by a local authority, being an exporting authority within the meaning of the said Part II, in the district of another local authority, or
- (c) by a local authority, in circumstances other than those mentioned in paragraph (a) or paragraph (b) of this subsection, as part of a scheme amounting to a substantial transfer of industry or of persons engaged in an industry and the Secretary of State is of opinion

Exchequer contributions for houses provided by local authorities for special purposes.
1957 c. 38.

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that, unless he exercises his powers under this section, the house could not be provided without unreasonably increasing the rate burden or the rents for other houses provided by the authority.

the Secretary of State may, in respect of the house, pay for each year of such a period not exceeding ten years as he may determine, beginning with the financial year in which the house was completed, an Exchequer contribution of such amount not exceeding fourteen pounds as he may determine.

(2) Without prejudice to section 57(1) of this Act, the payment of Exchequer contributions under this section in respect of any house shall be subject to such conditions as may be specified by the Secretary of State when undertaking to pay the said Exchequer contributions.

*Additional Exchequer contributions for houses in remote areas*Remote area
contributions.

9.—(1) Where the Secretary of State is satisfied that the total expenditure likely to be incurred in any year by a local authority, not being the town council of a large burgh, in providing housing accommodation by way of approved houses could not, in consequence of the remoteness of the sites of any of the houses from centres of supply of building labour and material, be met without charging unreasonably high rents for that accommodation and other accommodation provided by the authority or imposing an unreasonably heavy rate burden, the Secretary of State may, with the sanction of the Treasury, undertake to pay, and pay, for each year of a period of sixty years (in addition to any other Exchequer contribution) an Exchequer contribution of such amount, and in respect of such of the houses so provided, as he considers just and reasonable.

(2) Where housing accommodation is provided by a development corporation or a housing association, and is so provided by way of approved houses in pursuance of authorised arrangements made with a local authority to which Exchequer contributions under subsection (1) of this section are payable, the Secretary of State may, if he thinks fit having regard to the remoteness of the sites of any of the houses from centres of supply of building labour and material, pay in respect of any of the houses in any year (in addition to any other Exchequer contribution) an Exchequer contribution not exceeding the Exchequer contribution which would have been payable under this section in that year if the house had been provided by the local authority.

(3) Notwithstanding the provisions of subsections (1) and (2) of section 1 of this Act, and of section 12(1) thereof, references

in this section to approved houses shall include (in addition to references to approved houses within the meaning of section 1 of this Act) references to approved houses within the meaning of Part I of the Housing and Town Development (Scotland) Act 1957 and references to approved houses within the meaning of the Housing (Scotland) Act 1962.

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1957 c. 38.

1962 c. 28.

Additional Exchequer contributions for expensive sites

10.—(1) If any building consisting of or including an approved house is provided on a site which is approved for the purposes of this section by the Secretary of State and the net cost of which exceeds four thousand pounds per acre, then in respect of that site or the part of it on which the building is erected the Secretary of State shall pay for each of the sixty years beginning with the financial year in which the building was completed an Exchequer contribution at the rate of thirty-four pounds per acre for every one thousand pounds or part of a thousand pounds by which the net cost exceeds four thousand pounds per acre.

Expensive site
contributions.

(2) For the purposes of this section—

- (a) any amount by which the net cost of a site exceeds ten thousand pounds per acre shall be disregarded unless the building or one of the buildings provided or to be provided on the site is a block of flats of four or more storeys ;
- (b) if any building or part of a building erected or to be erected on a site is designed for use otherwise than as housing accommodation, the net cost of the site shall be deemed to be reduced by so much thereof as, in the opinion of the Secretary of State, may fairly be apportioned to that building or part of a building.

(3) For the purposes of this section the net cost of a site shall be taken to be—

- (a) where subsection (4) of this section does not apply, the cost of the site as ascertained in accordance with Schedule 1 to this Act ; and
- (b) where that subsection applies, the cost of the site as reduced under that subsection.

(4) Where any works of construction or any works carried out for the purpose of making a site suitable for the provision of houses would fall to be taken into account in ascertaining its cost in accordance with Schedule 1 to this Act, the Secretary of State may determine that that cost shall be taken to be reduced by such amount as is in his opinion fairly attributable to those works.

PART I

Provisions supplemental to sections 1 to 10

Expenses of acquisition of land deemed to include sum in respect of feuduty or rent in certain cases.

11. Where any house or other land has been acquired by way of feu or by way of lease or the assignation of a lease, the expenses incurred in connection with the acquisition shall be taken for the purposes of the foregoing provisions of this Part of this Act to include such sum as the Secretary of State may determine to be the capital equivalent of the feuduty or, as the case may be, of any rent or other prestations due under the lease.

Interpretation.

12.—(1) In the foregoing provisions of this Part of this Act, unless the context otherwise requires—

“approved house” has the meaning assigned to it by section 1 of this Act;

“recipient authority” has the meaning assigned to it by section 1 of this Act.

(2) Any reference in the foregoing provisions of this Part of this Act or in the following provisions of this section to a house shall be construed as including a reference to any residential accommodation provided for occupation by not more than two persons and equipped with cooking facilities for the exclusive use of those persons, notwithstanding that it is not equipped with facilities of other kinds for such exclusive use.

In this subsection the expression “cooking facilities” in relation to any residential accommodation means facilities suitable for the preparation of food for the number of persons for which the accommodation is provided, and if any question arises whether any particular facilities fall within that description it shall be decided by the Secretary of State.

(3) In relation to a house which is acquired by a recipient authority after its completion references in the foregoing provisions of this Part of this Act or in the following provisions of this section to the provision or the completion of any house shall be construed as referring to its acquisition by the recipient authority.

(4) References in the foregoing provisions of this Part of this Act to—

(a) authorised arrangements made with a local authority, in relation to a development corporation or a housing association, are references to arrangements made between the development corporation or housing association and a local authority, with the approval of the Secretary of State, under section 153 of the principal Act;

- (b) special arrangements made by a housing association with the Secretary of State are references to arrangements which the Secretary of State may have made with a housing association for the provision of houses with a view to their approval under this Act.

Exchequer contributions towards improvement of housing accommodation

13.—(1) The Secretary of State may approve proposals (hereafter in this Part of this Act referred to as “improvement proposals”) submitted to him by a local authority or a development corporation for—

Exchequer contributions for dwellings provided by conversion, or improved, by local authorities or development corporations.

- (a) the provision of dwellings by the local authority or development corporation by means of the conversion of houses or other buildings ;
- (b) the improvement of dwellings by the local authority or development corporation ;

and may, subject to and in accordance with the following provisions of this Part of this Act, make to the local authority or development corporation Exchequer contributions towards—

- (i) the cost of the works of conversion or improvement required for carrying out the improvement proposals, and
- (ii) any expense incurred by the local authority or development corporation in acquiring interests in land for the purpose of giving effect to the improvement proposals.

(2) Before approving any improvement proposals the Secretary of State shall satisfy himself, as respects dwellings to be provided in accordance with the improvement proposals, that the dwellings will provide satisfactory housing accommodation for a period of not less than thirty years from the completion of the works necessary for the conversion of the buildings in question, and, as respects dwellings to be improved in accordance with the improvement proposals, that the dwellings as so improved will provide such accommodation for a period of not less than thirty years from the completion of the improvements :

Provided that if in relation to all or any of the said dwellings the Secretary of State is of opinion that the said period is likely to be less than thirty years, he may, notwithstanding that fact, approve the improvement proposals if he considers it expedient in all the circumstances to do so and if he is satisfied that the said period is likely to be more than ten years.

(3) The Secretary of State shall also satisfy himself that all dwellings to be provided or improved in accordance with any improvement proposals will conform with such requirements

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with respect to their construction and physical condition, and the provision of services and amenities, as may be specified for the purposes of this section by the Secretary of State :

Provided that if in relation to all or any of the said dwellings the Secretary of State is not satisfied that the dwellings or dwelling will conform with a particular requirement so specified, he may, notwithstanding that fact, approve the improvement proposals if he is satisfied that, in all the circumstances of the case, conformity with that requirement would not be practicable at a reasonable expense.

1950 c. 34.

(4) No improvement proposals shall be approved by the Secretary of State under section 105 of the Housing (Scotland) Act 1950 after the commencement of this Act, and any improvement proposals approved by, or submitted to, the Secretary of State under that section on or after 16th August 1964 shall be deemed to have been approved or submitted under this section.

(5) A dwelling which has been provided or improved in giving effect to approved improvement proposals shall not, by reason only of such provision or improvement, be deemed to be a new house within the meaning of any local Act notwithstanding anything contained in such Act.

Amount of
Exchequer
contributions
under s. 13.

14.—(1) An Exchequer contribution under section 13 of this Act shall be a sum equal to three-eighths of the annual loan charges referable to an amount determined in accordance with subsections (2) and (3) of this section, payable for each year of a period of twenty financial years beginning with the year in which the carrying out of the improvement proposals was completed or for each year of such period, not exceeding sixty financial years beginning as aforesaid, as may be determined by the Secretary of State.

(2) The said amount shall be determined by the Secretary of State when approving the improvement proposals and shall, subject to subsection (3) of this section, be the amount appearing to him to be the aggregate of—

- (a) the cost likely to be incurred by the local authority or development corporation in carrying out the works, and
- (b) any expense likely to be incurred by the local authority or development corporation in acquiring interests in land for the purpose of giving effect to the improvement proposals.

(3) The amount so determined shall not exceed fourteen hundred pounds, or such other amount as may be specified by order of the Secretary of State, for each dwelling provided or improved by the works, unless the Secretary of State is satisfied

in any particular case that in all the circumstances of the case there is good reason for determining a higher amount.

(4) The Secretary of State may by order reduce, as respects improvement proposals approved after such date as may be specified in the order, the proportion of the said annual loan charges, but not below one-third.

(5) For the purposes of this section the annual loan charges referable to any amount shall be the annual sum which, in the opinion of the Secretary of State, would fall to be provided by a local authority or, as the case may be, a development corporation for the payment of interest on, and the repayment of, a loan of that amount repayable over the period of twenty years or, in a case where the Secretary of State has determined a longer period under subsection (1) of this section, that longer period.

(6) The power to make orders under this section shall be exercisable by statutory instrument, and—

(a) a statutory instrument containing an order under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) an order under subsection (4) of this section—

(i) shall not be made unless a draft thereof has been approved by a resolution of the Commons House of Parliament;

(ii) shall not specify a date earlier than the date of the laying of the draft;

and before laying such a draft the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned.

15.—(1) It shall be the duty of every local authority, within three months or such other period as the Secretary of State may specify after receipt by them of a notice by the Secretary of State requiring them so to do, to prepare and submit to him such particulars as may be specified in the notice of houses and other buildings to be included in improvement proposals.

Local authority may be required to submit particulars of properties to be included in improvement proposals and to submit improvement proposals relating to those properties

(2) A notice given under subsection (1) of this section may relate to the whole or to one or more parts of the local authority's district.

(3) It shall be the duty of a local authority by whom particulars have been submitted in pursuance of a notice given under subsection (1) of this section to prepare and submit to the Secretary of State, within three months after being required by him so to do, improvement proposals relating to any or all of the houses or other buildings specified in the said notice.

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Exchequer contributions for dwellings provided by conversion, or improved, by housing associations under arrangements with Secretary of State.

16.—(1) Where arrangements are made under section 154 of the principal Act by the Secretary of State with a housing association, the Secretary of State shall make to the housing association Exchequer contributions towards—

- (a) the cost of the works of conversion or improvement required for carrying out the arrangements, and
- (b) any expense incurred by the housing association in acquiring interests in land for the purpose of giving effect to the arrangements ;

and the provisions of section 14 of this Act shall apply in relation to such Exchequer contributions as they apply in relation to Exchequer contributions under section 13 of this Act ; and for the purposes of such application the said section 14 shall have effect—

- (i) as if for the reference to an Exchequer contribution under section 13 of this Act there were substituted a reference to an Exchequer contribution under this section ;
- (ii) as if for the references to the approval of improvement proposals by the Secretary of State there were substituted references to the making of arrangements by the Secretary of State with a housing association ;
- (iii) as if for the references to a local authority or a development corporation there were substituted references to a housing association ;
- (iv) subject to any other necessary modifications.

(2) This section shall have effect in relation to arrangements made by the Secretary of State with a housing association on or after 16th August 1964, and subsections (2) to (5) of section 14 of the Housing (Scotland) Act 1962 shall continue to have effect only in relation to arrangements so made before that date.

1962 c. 28.

Exchequer contributions for dwellings provided by conversion, or improved, by development corporations or housing associations under arrangements with local authorities.

17.—(1) Where arrangements are made under section 155 of the principal Act (including that section as extended by section 159 of the principal Act) by a local authority with a development corporation or a housing association, the Secretary of State shall make to the authority Exchequer contributions towards—

- (a) the cost of the works of conversion or improvement required for carrying out the arrangements, and
- (b) any expense incurred by the development corporation or housing association in acquiring interests in land for the purpose of giving effect to the arrangements ;

and the provisions of section 14 of this Act shall apply in relation to such Exchequer contributions as they apply in relation to

Exchequer contributions under section 13 of this Act ; and for the purposes of such application the said section 14 shall have effect—

- (i) as if for the reference to an Exchequer contribution under section 13 of this Act there were substituted a reference to an Exchequer contribution under this section ;
- (ii) as if for the references to the approval of improvement proposals by the Secretary of State there were substituted references to the approval by the Secretary of State of arrangements made by a local authority with a development corporation or a housing association ;
- (iii) as if for the references to cost or expense likely to be incurred by a local authority or a development corporation there were substituted references to cost or expense likely to be incurred by a development corporation or a housing association ;
- (iv) subject to any other necessary modifications.

(2) Where in connection with arrangements made by a local authority with a development corporation or a housing association any sum is payable to the authority by the Secretary of State annually for any period by way of an Exchequer contribution under this section, the authority shall pay to the development corporation or housing association, as the case may be, for that period annual grants each of an amount not less than the said sum.

(3) This section shall have effect in relation to arrangements approved by the Secretary of State on or after 16th August 1964, and subsections (3) to (5) of section 121 of the Housing (Scotland) Act 1950 shall continue to have effect only in relation to arrangements so approved before that date. 1950 c. 34.

18.—(1) A local authority submitting to the Secretary of State for approval any improvement proposals or any such arrangements as are mentioned in section 17 of this Act, and a housing association wishing to make with the Secretary of State any such arrangements as are mentioned in section 16 of this Act, shall furnish to the Secretary of State such estimates and such particulars as he may require for the purpose of determining the amount of any Exchequer contributions which fall to be made under this Part of this Act in connection with such proposals or arrangements. Provisions supplementary to ss. 13 to 17.

(2) References in sections 13 to 17 of this Act to the improvement of dwellings shall be construed as including references to the alteration or enlargement thereof and to the execution of works of repair thereto, not being works of ordinary repair, and

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as including also references to the execution of works of ordinary repair thereto so far, but so far only, as the execution thereof is incidental to or connected with the execution of works of improvement, alteration or enlargement or of works of repair not being works of ordinary repair, and in the said sections the expression "improved" shall be construed accordingly.

Exchequer contributions for special purposes

Exchequer contributions towards expenditure of local authorities in respect of unfit houses purchased or held by them.

19.—(1) The Secretary of State may make such Exchequer contributions as are authorised by this section towards expenditure incurred by a local authority in respect of houses approved by the Secretary of State for the purposes of this section, being—

- (a) houses purchased by the local authority under section 14(1) of the principal Act ; or
- (b) houses purchased by them under section 20 of the principal Act ; or
- (c) houses of which the demolition is postponed under section 40 of the principal Act.

(2) Subject to the following provisions of this section, Exchequer contributions under this section in respect of any house shall be as follows, that is to say—

- (a) in the case of a house purchased by the local authority, an Exchequer contribution equal to one-half of the annual loan charges referable to the cost of the purchase, payable for each financial year during the whole or part of which the house or any part of the house is used for housing purposes with the approval of the Secretary of State ; and
- (b) in any case, an Exchequer contribution—

(i) if the house was approved for the purposes of this section on or before 13th November 1963, of seven pounds five shillings,

(ii) if the house was so approved after that date, of twelve pounds five shillings,

payable for each year of a period of fifteen years from the date on which the house was approved for the purposes of this section :

Provided that the Secretary of State may from time to time by order direct that paragraph (b) of this subsection shall have effect, in relation to houses approved after the date on which the order comes into force, as if for the sum specified in head (ii) thereof there were substituted such higher or lower sum as may be specified in the order.

(3) If it appears to the Secretary of State that the expenditure incurred as a whole by a local authority in carrying out works

on houses approved by the Secretary of State for the purposes of this section is unduly low having regard to the amount of the Exchequer contributions for the time being payable in respect of those houses under paragraph (b) of subsection (2) of this section, he may withhold the whole or any part of the Exchequer contributions payable under that paragraph to the authority.

(4) The power to make orders under this section shall be exercisable by statutory instrument, and an order so made shall be of no effect until it is approved by a resolution of the Commons House of Parliament.

(5) For the purposes of this section the annual loan charges referable to the cost of a purchase shall (whatever may be the manner in which the local authority have provided or intend to provide the money required for the purchase) be the annual sum which, in the opinion of the Secretary of State, would fall to be provided by the authority for the payment of interest on, and the repayment of, an amount of borrowed money equal to the said cost, being money the period for the repayment of which is sixty years.

20. Where—

(a) the Secretary of State is satisfied on an application made to him by a local authority or a development corporation or a housing association with respect to a house which they have provided that the cost of providing the house has been substantially enhanced by reason of either or both of the following matters, namely—

Exchequer
contributions
for building
experiments.

(i) that, with his consent, the house has been constructed in whole or in part by an experimental method ;

(ii) that, with his consent, materials have, for the purposes of experiment, been used in the construction of the house or equipment or fittings have, for those purposes, been installed in the house in the course of the construction thereof ; or

(b) with the consent of the Secretary of State, expense is incurred by a local authority or a development corporation or a housing association in incorporating or installing in a house, otherwise than in the course of the construction thereof, materials, equipment or fittings for the purposes of experiment ;

then, subject to such conditions (if any) as the Treasury may determine, the Secretary of State may make to the local authority or development corporation or housing association, as the case may be, an Exchequer contribution or Exchequer con-

PART I tributions of such amount and payable in such manner as he may determine.

Exchequer
contributions
for hostels.

21.—(1) In respect of a new building provided, or a building converted, by a local authority or a development corporation or a housing association for use as a hostel or (in the case of a building so provided or converted on or after 3rd July 1962) as part of a hostel, being a building which—

- (a) if provided or converted by a housing association, is so provided or converted under arrangements made with the housing association by the Secretary of State after consultation with the local authority of the district in which the building is, or will be, situated, and
- (b) in any case, is approved for the purposes of this subsection by the Secretary of State,

the Secretary of State shall make to the local authority or development corporation or housing association an Exchequer contribution—

- (i) payable for each year of such number of financial years, not exceeding sixty, as he may determine, being years beginning with the year in which the building was, or as the case may be, the works of conversion were, completed ;
- (ii) of such amount, not exceeding the sum produced by multiplying seven pounds (in the case of a building so provided or converted before 10th May 1967) or fifteen pounds (in the case of a building so provided or converted on or after 10th May 1967) by the number of bedrooms contained in the building, as he may determine having regard to the standard of construction and amenity of the building.

(2) The like Exchequer contributions, if any, shall be payable in respect of a building which under arrangements made under section 153 of the principal Act (including that section as extended by section 159 of the principal Act) by a local authority with a development corporation or a housing association has been provided or converted by the development corporation or housing association for use as a hostel or (in the case of a building so provided or converted on or after 3rd July 1962) as part of a hostel as would have fallen to be made if the building had been provided or converted by the authority for such use, and any such Exchequer contribution shall be paid to the authority, who shall pay to the development corporation or housing association, as the case may be, by way of annual grant an amount not less than the said Exchequer contribution.

(3) This section shall not apply to a new building completed or a building converted before 30th July 1949 or to any premises provided for the purposes of Part III of the National Assistance Act 1948 by a local authority or to any housing accommodation for single persons in a hostel to which section 84(7) of the Housing (Scotland) Act 1950 applies.

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1948 c. 29.

1950 c. 34.

(4) In this section the expression "hostel" means—

- (a) in relation to a building provided or converted before 3rd July 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained dwellings) and board ;
- (b) in relation to a building provided or converted on or after 3rd July 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in houses) and either board or common facilities for the preparation of food adequate to the needs of those persons, or both.

Section 12(2) of this Act shall apply to the reference in this subsection to houses as it applies to such references in sections 1 to 12 of this Act.

22.—(1) Where a local authority have (whether before or after the commencement of this Act) for the purpose of discharging any of their duties under Part VII of the principal Act, acquired the right to use any government war buildings, and the Secretary of State has approved for the purposes of this section arrangements made by the authority for using those buildings, whether with or without alterations, for providing temporary housing accommodation, then—

Exchequer contributions for temporary housing accommodation provided in certain war buildings.

- (a) if the Secretary of State estimates that the local authority will incur a loss in any year in respect of the provision of housing accommodation in pursuance of the arrangements, he shall make to the authority an Exchequer contribution for that year of a sum equivalent to the estimated loss ; and
- (b) if the Secretary of State estimates that the local authority will make a profit in any year in respect of the provision of housing accommodation in pursuance of the arrangements, the authority shall pay to him in respect of that year a sum equivalent to the estimated profit.

(2) For the purposes of any such estimate there shall be deemed to accrue to a local authority, in respect of each house

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provided by the authority in pursuance of any such arrangements as aforesaid, in addition to any other income accruing from the house—

(a) where the local authority are the council of a county in which the density of the population does not exceed one hundred per square mile, or are the council of a burgh of which the population does not exceed two thousand, the sum of six pounds a year ; and

(b) in any other case, the sum of eight pounds a year.

(3) Where any buildings are demolished by a local authority upon ceasing to be used for the purpose of providing housing accommodation in pursuance of such arrangements as aforesaid, then—

(a) the Secretary of State shall pay to the local authority the cost of demolition ; and

(b) any sums realised by the local authority by the disposal of materials derived from the demolished buildings shall be paid by the authority to the Secretary of State.

(4) In this section the expression “ government war building ” means any building which constitutes government war works as defined by section 59 of the Requisitioned Land and War Works Act 1945, and the expression “ alterations ” includes adaptations, enlargements and improvements.

1945 c. 43.

Advances to housing associations

Advances to registered housing associations providing or improving housing accommodation for letting.

1965 c. 12.

23.—(1) If a housing association registered under the Industrial and Provident Societies Act 1965 submit to the Secretary of State a scheme under which they will provide or improve housing accommodation, and satisfy the Secretary of State that under the scheme the housing accommodation so provided or improved will be let or kept available for letting except at such times and in such cases as the Secretary of State may approve, the Secretary of State may make advances to the housing association in accordance with this section.

(2) The Secretary of State may, in accordance with an agreement made by him with the housing association, make on such terms and conditions as he may approve advances to the housing association to meet the whole or any part of the expenditure incurred by the housing association in connection with the scheme, and the advances—

(a) shall carry interest—

(i) in the case of an advance made before 27th February 1964, at the rate fixed by the Treasury under section 1 of the Public Works Loans Act 1897 in respect of loans to local authorities made

1897 c. 51.

on the date of the making of the advance and for the same period as the advance ;

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(ii) in the case of an advance made on or after 27th February 1964 and before 1st April 1968, at the rate fixed by the Treasury under section 2 of the Public Works Loans Act 1964 in respect of loans to local authorities made on the date of the making of the advance and for the same period as the advance, being loans made on the security of local rates, or, where there is more than one rate so fixed, at such of those rates as the Treasury have directed in that behalf under the said section 2 ; and 1964 c. 9.

(iii) in the case of an advance made on or after 1st April 1968, at the rate in respect of loans to local authorities made on the date of the making of the advance and for the same period as the advance (being, in terms of section 6(2) of the National Loans Act 1968, the rate at that time determined by the Treasury in respect of local loans of that class made on the security of local rates, subject to any relevant direction given by the Treasury under the said section 6(2)) ; and 1968 c. 13.

(b) shall be repayable over such period, not exceeding sixty years, and on such terms, as may, with the approval of the Treasury, be provided in the agreement.

(3) It shall be the duty of a housing association who have entered into an agreement under this section to comply with any directions which the Secretary of State may give to them with respect to the administration of the scheme and the disposal of assets provided under the scheme.

(4) Advances made under this section shall not exceed the aggregate sum of three million pounds.

(5) The Treasury may issue to the Secretary of State, out of the National Loans Fund, such sums as are necessary to enable him to make advances under this section.

(6) Any sums received by the Secretary of State under subsection (2) of this section shall be paid into the National Loans Fund.

(7) The Secretary of State shall, in respect of each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to him for advances under this section, and of sums received by him under this section, and of

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PART I

the disposal by him of those sums respectively, and send it to the Comptroller and Auditor-General not later than the end of November in the following financial year; and the Comptroller and Auditor-General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

(8) In this section—

- (a) references to the provision of housing accommodation are references to the provision of housing accommodation by building new houses; and
- (b) references to the improvement of housing accommodation are references to the improvement of housing accommodation—
 - (i) by the provision of dwellings by means of the conversion of houses or other buildings, or
 - (ii) by the improvement of dwellings.

Loans to housing associations by Public Works Loan Commissioners.

24.—(1) The Public Works Loan Commissioners may, subject to the provisions of this section, lend money to any housing association—

- (a) for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses;
- (b) for the purchase of houses;
- (c) for the purchase and development of land,

and any housing association may borrow from the Public Works Loan Commissioners such money as may be required for the purposes aforesaid.

(2) A loan for any of the purposes specified in subsection (1) of this section shall be secured with interest by a heritable security over the land and houses in respect of which that purpose is to be carried out and over such other land and houses, if any, as may be offered as security for the loan.

(3) Any such loan may be made whether the housing association receiving the loan have or have not power to borrow on bond and disposition in security or otherwise, independently of this Act, but nothing in this Act or the principal Act shall affect any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken or paid up.

(4) The following conditions shall apply in the case of any such loan:—

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- (a) the period for repayment shall not exceed forty years ;
- (b) no money shall be lent on the security of any land or houses unless the estate or interest therein proposed to be burdened is either ownership or a lease of which a period of not less than fifty years remains unexpired at the date of the loan ;
- (c) the money lent shall not exceed such proportion as is hereinafter authorised of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land or houses proposed to be burdened in pursuance of subsection (2) of this section ; but loans may be made by instalments from time to time as the building of houses or other work on the land so burdened progresses, so, however, that the total loans do not at any time exceed the amount aforesaid ; and the heritable security may be granted accordingly to secure such loans so to be made from time to time :

Provided that, where a loan is made under this section for the purpose of carrying out a scheme for the provision of houses approved by the Secretary of State—

- (i) the maximum period for the repayment of the loan shall be fifty instead of forty years ;
- (ii) money may be lent on heritable security over a lease recorded under the Registration of Leases (Scotland) Act 1857, being a lease of which a period of not less than ten years in excess of the period fixed for the repayment of the sums lent remains unexpired at the date of the loan. 1857 c. 26.

(5) The proportion of such value as aforesaid authorised for the purpose of the loan shall be three-fourths :

Provided that—

- (a) if payment of the principal of and interest on the loan is guaranteed by a local authority, the said proportion shall be nine-tenths ;
- (b) if payment is not guaranteed as aforesaid and the loan exceeds two-thirds of such value as aforesaid, the Public Works Loan Commissioners shall require, in addition to such a heritable security as is mentioned in subsection (2) of this section, such further security as they may think fit.

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*Special provisions for financial assistance to Scottish Special
Housing Association*

Advances to
Scottish
Special
Housing
Association
for provision
or
improvement
of housing
accommoda-
tion.

25.—(1) The Secretary of State may make advances, of such amounts, on such terms and repayable over such periods as may be approved by the Treasury, to the Scottish Special Housing Association for the purpose of—

- (a) enabling or assisting the provision or improvement of housing accommodation by the Association (whether as principals or as agents for a local authority or for any other person);
- (b) meeting the whole or any part of the expenditure incurred by the Association in connection with any scheme submitted to the Secretary of State by the Association under which the Association will provide or improve housing accommodation, and as to which the Secretary of State is satisfied that the housing accommodation so provided or improved will be let or kept available for letting except at such times and in such cases as the Secretary of State may approve;
- (c) assisting the Association to acquire any land compulsorily under section 175 of the principal Act;
- (d) assisting the Association to act as the agents of the Housing Corporation in pursuance of section 11(1) of the Housing Act 1964;
- (e) enabling or assisting the Association to purchase, on terms approved by the Secretary of State, all or any of the assets of any authorised society within the meaning of the Housing Act 1914 or any housing trust to which section 119 of the Housing (Scotland) Act 1925 applied:

1964 c. 56.

1914 c. 31.

1925 c. 15.

Provided that—

- (i) the aggregate amount of the advances made under this subsection, together with any advances made under section 94(1) of the Housing (Scotland) Act 1950, shall not exceed one hundred and forty-five million pounds or such greater sum, not exceeding one hundred and seventy million pounds, as the Secretary of State may by order specify;
- (ii) the aggregate amount of the advances made under paragraph (a) of this subsection in respect of the improvement of housing accommodation shall not exceed one million pounds;
- (iii) the aggregate amount of the advances made under paragraph (b) of this subsection shall not exceed one million pounds.

1950 c. 34.

(2) It shall be the duty of the Association, if they accept any advances under paragraph (b) of subsection (1) of this section in connection with a scheme, to comply with any directions which the Secretary of State may give to them with respect to the administration of the scheme and the disposal of the assets provided under the scheme.

(3) The power to make orders conferred on the Secretary of State by paragraph (i) of the proviso to subsection (1) of this section shall be exercisable by statutory instrument, and no order shall be made in the exercise of that power unless a draft of the order has been laid before the Commons House of Parliament and has been approved by a resolution of that House.

(4) Subsections (5) to (7) of section 23 of this Act shall apply in relation to advances made under this section and sums received in repayment thereof as they apply in relation to advances made under that section and sums received in repayment thereof.

(5) In this section—

(a) references to the provision of housing accommodation are references to the provision of housing accommodation whether by building new houses or by the acquisition of houses; and

(b) references to the improvement of housing accommodation are references to the improvement of housing accommodation—

(i) by the provision of dwellings by means of the conversion of houses or other buildings, or

(ii) by the improvement of dwellings.

(6) Section 12(2) of this Act shall apply to references in this section to houses as it applies to such references in sections 1 to 12 of this Act.

26. Where the Secretary of State is satisfied that the total net annual expenditure (as calculated in accordance with rules made by the Secretary of State) necessarily incurred in the year beginning on 1st April 1962 or in any subsequent year by the Scottish Special Housing Association—

(a) in providing new houses in respect of which Exchequer contributions fall to be made under section 93 of the Housing (Scotland) Act 1950, section 23 of the Housing and Town Development (Scotland) Act 1957, section 1 of the Housing (Scotland) Act 1962 or sections 2 to 4, 6, 7 or 10 of this Act; and

(b) in improving, otherwise than as agents, housing accommodation whether by the provision of dwellings by

Exchequer contributions towards certain deficits of Scottish Special Housing Association.

1950 c. 34.
1957 c. 38.
1962 c. 28.

PART I

means of the conversion of houses or other buildings or by the improvement of dwellings; and

- (c) in providing housing accommodation, being accommodation acquired by them from any such body as is mentioned in section 25(1)(e) of this Act;

is greater than the sum of—

- (i) the Exchequer contributions referred to in paragraph (a) of this section for the year in question, and
(ii) any Exchequer contributions made to the Association for the year in question under section 16 of this Act,

the Secretary of State may, with the approval of the Treasury, make such further Exchequer contribution to the Association in respect of the excess as he may determine.

PART II

FINANCIAL ASSISTANCE IN RESPECT OF HOUSING
ACCOMMODATION PRIVATELY PROVIDED OR IMPROVED

Grants by local authorities for improvements

Power of local
authorities
to make
improvement
grants.

27.—(1) Subject to the provisions of this Part of this Act, a local authority may give assistance in respect of—

- (a) the provision of dwellings by a person other than a local authority by means of the conversion of houses or other buildings;
(b) the improvement of dwellings by such a person;

by way of making a grant (in this Part of this Act referred to as an “improvement grant”) in respect of expenses incurred for the purpose of the execution of the works of conversion or improvement (in this Part of this Act referred to as “improvement works”) if, before the improvement works are begun, an application in that behalf is made to the authority by that person (hereafter in this Part of this Act referred to as “the applicant”) and approved by them.

(2) An application for an improvement grant must contain full particulars of the improvement works proposed to be carried out and of the land on which those works are proposed to be carried out, together with plans and specifications of the works.

(3) An application for an improvement grant must also contain an estimate of the expenses to be incurred for the purpose of the execution of the improvement works (which estimate may include fees payable to professional persons employed in connection with those works), and, where the application relates to the provision or improvement of more than one dwelling, the said estimate must specify the proportion of the estimated expenses that is attributable to each dwelling proposed to be

provided or improved, and, subject to subsection (4) of this section, the application shall not be entertained unless—

- (a) in a case where the application relates only to the provision or improvement of a single dwelling, the amount of the expenses estimated to be incurred for the purposes of the execution of the improvement works, or
- (b) in any other case, the proportion of those expenses attributable to each dwelling proposed to be provided or improved,

is not less than one hundred pounds or such other amount as may for the time being be prescribed.

(4) Where at any time within three years after the making of a standard grant under section 40 of this Act in respect of a dwelling an application for an improvement grant is made in respect of that dwelling and the application contains a statement of the cost incurred in executing the works in respect of which the standard grant was made, subsection (3) of this section shall have effect, in relation to that application or, if the dwelling is not the only one to which the application relates, in relation to the application so far as it relates to the dwelling, as if the amount specified in or prescribed under that subsection were reduced by the cost incurred as aforesaid.

(5) Where a local authority approve an application for an improvement grant they shall notify the applicant of the amount approved by them as being the amount of the expenses which, in their opinion, are properly ascribable to the execution of the improvement works and, where the application relates to the provision or improvement of more than one dwelling, of the proportion of that amount approved by them as being attributable to each dwelling proposed to be provided or improved.

The said amount is hereafter in this Part of this Act referred to, in relation to improvement works, as the “approved expense” of executing those works, and the proportion of that amount approved under this subsection as being attributable to a dwelling is so referred to, in relation to that dwelling, as the “approved proportion” of the approved expense.

(6) Before approving an application for an improvement grant the local authority shall satisfy themselves as to the requirements set out in section 28(1) of this Act subject, however, to the provisions of subsections (2) and (3) of that section.

(7) A local authority may in any case refuse to approve an application for an improvement grant on any grounds that seem to them sufficient, and shall refuse to approve any such application in respect of any dwelling to be provided or improved by means of improvement works if assistance has been given in

PART II

respect of that dwelling under any of the following enactments, that is to say—

- 1946 c. 73. (a) section 1 of the Hill Farming Act 1946 ;
 1948 c. 45. (b) section 77 of the Agriculture (Scotland) Act 1948 ;
 1950 c. 34. (c) section 100(1)(b) of the Housing (Scotland) Act 1950 ;
 1955 c. 21. (d) section 22(2) of the Crofters (Scotland) Act 1955 ;
 (e) section 44 of this Act.

(8) If a local authority refuse to approve an application for an improvement grant, or, having approved such an application, pay by way of an improvement grant in respect thereof an amount smaller than the maximum amount allowed by section 29(1) of this Act apart from the proviso to the said section 29(1), they shall, if the applicant so requests, notify him in writing of the grounds of their refusal or, as the case may be, the grounds of their decision not to pay the said maximum amount.

(9) The Secretary of State may give directions to any local authority or to local authorities generally requiring that any application for an improvement grant or all such applications of any class specified in the directions shall not be approved except with the consent of the Secretary of State (which may be granted subject to conditions), and it shall be the duty of any local authority to whom such directions are issued to comply therewith.

Requirements precedent to approval of application for improvement grant.

28.—(1) The requirements referred to in section 27(6) of this Act are as follows, that is to say—

- (a) that, as respects dwellings to be provided or improved by means of the improvement works, the dwellings or (as the case may be) the dwellings as so improved will provide satisfactory housing accommodation for a period of not less than thirty years from the completion of the works ;
- (b) that all such dwellings as aforesaid will conform with such requirements with respect to their construction and physical condition and the provision of services and amenities as may be specified for the purposes of this section by the Secretary of State ;
- (c) that the applicant is, in respect of every parcel of land on which improvement works are proposed to be carried out (other than land proposed to be sold or leased to him under section 145(4) of the principal Act), either the owner or the lessee under a lease of which the period remaining unexpired at the date of the application is not less than—

- (i) the period for which the dwellings concerned will provide satisfactory housing accommodation,
 or

(ii) thirty years,
whichever is the shorter.

(2) If, in relation to all or any of the said dwellings, the local authority are of opinion that the period mentioned in paragraph (a) of subsection (1) of this section is likely to be less than thirty years, they may, notwithstanding that fact, approve the application if they are satisfied that the said period is likely to be more than ten years and if they consider it expedient in all the circumstances to do so.

(3) If, in relation to all or any of the said dwellings, the local authority are not satisfied that the dwellings or dwelling will conform with a particular requirement specified under paragraph (b) of subsection (1) of this section, they may, notwithstanding that fact, approve the application if they are satisfied that, in all the circumstances of the case, conformity with that requirement would not be practicable at a reasonable expense.

29.—(1) Subject to the provisions of subsection (2) of this section, the amount which may be paid by way of an improvement grant shall be an amount not exceeding—

Amount of improvement grants and payment thereof.

- (a) if the application for the improvement grant was made to the local authority before 16th August 1964, four hundred pounds for each dwelling provided or improved by the improvement works ;
- (b) if the said application was so made on or after that date, five hundred pounds, or such other amount as may for the time being be prescribed, for each dwelling so provided or improved ;
- (c) in any case, such fraction of the approved expense of executing the improvement works, not exceeding one-half thereof, as may be determined by the local authority when they approve the application for the improvement grant :

Provided that—

- (i) where the local authority, with the concurrence of the Secretary of State, are satisfied in the case of any particular application that in all the circumstances of the case there is good reason for the payment of an amount higher than the amount authorised under this subsection, the amount of the improvement grant may be such amount in excess of the sum specified in paragraph (a) of this subsection or (as the case may be) specified in or prescribed under paragraph (b) thereof, but not exceeding one-half of the approved expense of executing the improvement works, as may be determined by the authority with the consent of the Secretary of State when they approve the application ;

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PART II

(ii) where the local authority are satisfied that the expense of executing the improvement works was materially enhanced by reason of measures taken to preserve the architectural or historic interest of the house or building to which the application relates, the amount of the improvement grant may be such fraction of the approved expense of executing the works, in excess of one-half thereof, or such amount in excess of the sum specified in paragraph (a) of this subsection or (as the case may be) specified in or prescribed under paragraph (b) thereof, as may be determined by the authority with the consent of the Secretary of State when they approve the application.

(2) Where after the making of a standard grant under section 40 of this Act in respect of a dwelling an improvement grant is made in respect of that dwelling, subsection (1) of this section shall have effect, in relation to that dwelling, as if the sum specified in paragraph (a) of that subsection or (as the case may be) specified in or prescribed under paragraph (b) thereof were reduced by the amount of the standard grant.

(3) An improvement grant in respect of expenses incurred for the purpose of the execution of improvement works may be paid either after completion of the works or partly in instalments from time to time as the works progress and as to the balance after the completion of the works:

Provided that where the improvement grant is to be paid partly in instalments, the aggregate of the instalments paid shall not at any time before the completion of the improvement works exceed one-half of the aggregate cost of the works executed up to that time.

(4) The payment of an improvement grant or of an instalment or the balance thereof shall be conditional on the improvement works or, as the case may be, the part of the works which the applicant considers will entitle him to payment of the instalment or balance being executed to the satisfaction of the local authority.

(5) Where an instalment of an improvement grant is paid before the completion of the improvement works, and the works are not completed within twelve months of the date of payment of the instalment, then that instalment and any further sums paid by the local authority on account of the improvement grant shall, on being demanded by the authority, forthwith become payable to them by the person to whom the instalment was paid, and the instalment and any such payment shall carry interest at the prescribed rate from the date on which it was paid by the authority until repaid under this subsection.

30.—(1) In the case of a dwelling in respect of the provision or improvement of which an improvement grant has been made, the conditions specified in Schedule 3 to this Act shall, subject to the provisions of this Part of this Act, be observed with respect to the dwelling for a period of three years beginning with the day on which in the opinion of the local authority it first becomes fit for occupation after the completion of the improvement works, and shall, so long as they are required to be so observed, be deemed to be part of the terms of any lease or tenancy of the dwelling, and shall be enforceable accordingly.

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Conditions to be observed with respect to dwellings.

(2) The provisions of this section, of section 31 of this Act and of Schedule 3 thereto (other than paragraph 4 thereof), shall apply to a dwelling used as a residence by a minister or full-time lay missionary of any religious denomination by virtue of his office as such minister or missionary in like manner as if he were a tenant of the dwelling.

31.—(1) The provisions of this section shall have effect in the event of a breach of any of the conditions specified in Schedule 3 to this Act at a time when they are required to be observed with respect to a dwelling.

Enforcement of conditions.

(2) Where the improvement works by means of which the dwelling was provided or improved were works only for the provision or improvement of that dwelling, there shall, on being demanded by the local authority, forthwith become payable to them, by the owner for the time being of the dwelling, the appropriate proportion of any sums paid by the authority by way of improvement grant in respect of the expenses incurred for the purpose of the execution of those works, together, in the case of each such sum, with interest on the appropriate proportion thereof for the period from the date of payment of the sum by the authority to the date of payment to the authority of the appropriate proportion of the sum.

(3) In any other case, there shall, on being demanded by the local authority, forthwith become payable to them, by the owner for the time being of the dwelling, the appropriate proportion of a part of any such sums as aforesaid bearing to the whole thereof the same proportion that the approved proportion of the approved expense of executing the improvement works bears to the whole of the approved expense of executing those works, together, in the case of each part of a sum, with interest on the appropriate proportion of that part for the period from the date of payment of the sum by the authority to the date of payment to the authority of the appropriate proportion of that part.

(4) In subsections (2) and (3) of this section—

(a) the expression “the appropriate proportion”, in relation to a sum or part of a sum, means a part thereof

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proportionate to the extent to which the period during which conditions are required by section 30 of this Act to be observed with respect to the dwelling remains unexpired at the date of the occurrence of the breach ; and

(b) "interest" means compound interest calculated at the prescribed rate and with yearly rests.

(5) If the local authority are satisfied that the breach is capable of being remedied, they may, with the consent of the Secretary of State, and subject to such conditions (if any) as he may approve, direct that the operation of the foregoing provisions of this section shall, in relation to the breach, be suspended for such period as appears to them to be necessary for enabling the breach to be remedied, and, if the breach is remedied within that period, may direct that the said provisions shall not have effect in relation to the breach.

(6) If the local authority are satisfied that the breach, although not capable of being remedied, was not due to the act, default or connivance of the owner of the dwelling, they may, with the like consent and subject to such conditions as aforesaid, direct that the said provisions shall not have effect in relation to the breach.

(7) Upon satisfaction of a liability of an owner of a dwelling to make payment under subsection (2) or subsection (3) of this section to a local authority, observance with respect to the dwelling of the conditions specified in Schedule 3 to this Act shall cease to be requisite.

(8) The sheriff within whose jurisdiction is situated any dwelling with respect to which the conditions specified in Schedule 3 to this Act are for the time being required to be observed may, on the application of the local authority, whether or not any other relief is claimed, grant an interdict restraining a breach or apprehended breach, in relation to the dwelling, of any of those conditions other than the condition specified in paragraph 5 of the said Schedule.

(9) Where a local authority pay an improvement grant or, in a case where an improvement grant is payable partly in instalments as the improvement works progress and as to the balance after the completion of the works, the balance of the improvement grant in respect of a dwelling, they shall cause to be recorded in the General Register of Sasines a notice in the prescribed form specifying—

(a) the conditions required by section 30 of this Act to be observed with respect to the dwelling, being the conditions specified in Schedule 3 to this Act ; and

- (b) the provisions of this section whereby, on a breach of any of the said conditions at a time when they are required to be observed, the owner for the time being of the dwelling becomes liable to repay to the local authority the amount set forth in this section ;

and the cost of such recording shall be repaid to the local authority by the owner for the time being of the dwelling.

(10) In any case where, in pursuance of subsection (7) of this section, observance of the conditions specified in Schedule 3 to this Act ceases to be requisite with respect to a dwelling, the local authority shall cause to be recorded in the General Register of Sasines a notice in the prescribed form stating that the said conditions no longer apply to the dwelling, and the cost of such recording shall be repaid to the authority by the owner for the time being of the dwelling.

(11) In the event of a breach of any of the conditions specified in Schedule 3 to this Act at a time when they are required to be observed with respect to a dwelling it shall be competent for the local authority to make a charging order in favour of themselves for the amount that becomes payable to them under this section in consequence of such breach, and the provisions of section 29 of the principal Act shall, subject to any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under section 28 of that Act.

32.—(1) It shall be the duty of a local authority, at the time at which they approve an application for an improvement grant, to fix, for the purposes of this Part of this Act, with respect to— Duty of local authority to fix maximum rents.

- (a) every dwelling to be provided by means of the improvement works, and
(b) every dwelling to be improved by means of the improvement works, being a dwelling which the local authority are satisfied has not been let as a dwelling at any time during the period of five years immediately preceding the date of the application,

the maximum rent that may be paid in respect of the dwelling.

(2) A local authority, in fixing under subsection (1) of this section the maximum rent that may be paid in respect of a dwelling, shall have regard to—

- (a) the age of the building ;
(b) the character and condition of the dwelling after the carrying out of the proposed improvement works ;
(c) the cost of the proposed improvement works ; and
(d) the rents payable in their district for similar dwellings not let under an existing controlled tenancy.

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(3) Where an application is made to a local authority for an improvement grant in respect of the improvement of a dwelling (not being a dwelling as respects which the authority are satisfied as mentioned in subsection (1)(b) of this section), and that dwelling is not subject to an existing controlled tenancy, the application may contain a request to fix for the purposes of paragraph 4 of Schedule 3 to this Act a rent higher than the limit imposed by sub-paragraph (b) of that paragraph, and if it appears to the authority reasonable to do so, having regard to all the circumstances and, in particular, to the rents payable in their district for similar dwellings not let under an existing controlled tenancy, they may, on approving the application, fix such higher rent for those purposes as they think reasonable; and a rent so fixed shall be substituted in the condition set out in the said paragraph 4 for the limit imposed by the said sub-paragraph (b).

(4) Where—

- (a) an improvement grant has been made in respect of the provision or improvement of any dwelling, and
- (b) works (other than works for the purpose of the execution of which the improvement grant has been so made) have been executed on the said dwelling at a time when the conditions specified in Schedule 3 to this Act are required to be observed with respect thereto,

the local authority may, on an application being made to them in that behalf, direct that for the purposes of this Part of this Act the maximum amount of the rent payable by any tenant of the dwelling shall be increased by such amount as may be specified in the direction, not exceeding an amount calculated at a rate per annum of twelve and one half per cent. of the cost of executing the works.

(5) Where a direction is given under subsection (4) of this section in relation to a dwelling on any occasion, references in paragraph 4 of Schedule 3 to this Act to the amount which the rent payable by any tenant of the dwelling is not to exceed shall, as respects any period after the giving of the direction and before any subsequent direction is given under the said subsection (4) in relation to the dwelling or the direction is superseded by reason of the application of the said conditions by virtue of the giving of a further improvement grant, whichever event first occurs, be construed in relation to the dwelling, for the purposes of—

(a) this Part of this Act, and

(b) where section 37(2) of this Act applies, the Housing (Rural Workers) Acts 1926 to 1942,

as references to that amount as increased in accordance with the direction given on that occasion and with any direction given

under the said subsection (4) in relation to the dwelling on a previous occasion which has not been superseded as aforesaid. PART II

(6) In this section "existing controlled tenancy" has the same meaning as in section 11 of the Rent Act 1965. 1965 c. 75.

33.—(1) It shall be the duty of every local authority to make and keep a register in the prescribed form in which they shall record in relation to every dwelling with respect to which the conditions specified in Schedule 3 to this Act are for the time being required to be observed— Local authority to keep register of rents.

- (a) the amount to which the rent is limited by virtue of the condition contained in paragraph 4 of the said Schedule 3;
- (b) any increase of the said amount authorised by virtue of subsections (4) and (5) of section 32 of this Act; and
- (c) such other information as may be prescribed.

(2) A register kept by a local authority under this section shall be made available for inspection by the public at the principal office of the authority during all normal business periods.

(3) The Secretary of State may provide by regulations made by statutory instrument for the issue by a local authority of extracts of entries in the register kept by them under this section, and for the charging by the authority of a fee, not exceeding one shilling, in respect of each entry contained in any extract issued in accordance therewith, and any extract so issued shall be evidence of the matters set out therein.

34.—(1) The owner of a dwelling in respect of the provision or improvement of which an improvement grant has been made or the holder of a heritable security over the dwelling, being a heritable creditor entitled to exercise his power of sale, may, at any time when the conditions specified in Schedule 3 to this Act are required to be observed with respect to the dwelling, pay to the local authority the like amount as would become payable to them under section 31 of this Act in the event of a breach at that time of any of those conditions, and on the making of the payment observance with respect to the dwelling of those conditions shall cease to be requisite. Voluntary repayment of improvement grants.

(2) A sum paid under subsection (1) of this section by a heritable creditor shall be treated as part of the sum secured by the heritable security.

(3) In any case where, in pursuance of subsection (1) of this section, observance of the conditions specified in Schedule 3 to this Act ceases to be requisite with respect to a dwelling,

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section 31(10) of this Act shall apply in like manner as it applies in the case therein mentioned.

Exchequer contributions towards improvement grants.

35.—(1) The Secretary of State may make Exchequer contributions towards the expense incurred by a local authority in making an improvement grant.

(2) Subject to any order made by the Secretary of State under section 56 of this Act, an Exchequer contribution under subsection (1) of this section shall be a sum equal to three-quarters of the annual loan charges referable to the amount of the improvement grant, payable for each of the twenty financial years beginning with the year in which were completed the improvement works in respect of which the improvement grant was made.

(3) For the purposes of this section, the annual loan charges referable to the amount of an improvement grant shall (whatever may be the manner in which the local authority have provided or intend to provide the money requisite for making the improvement grant) be the annual sum which, in the opinion of the Secretary of State, would fall to be provided by the authority for the payment of interest on, and the repayment of, an amount of borrowed money equal to the amount of the improvement grant, being money the period for the repayment of which is twenty years.

(4) A local authority shall pay to the Secretary of State three-quarters of any sum—

- (a) recovered by them by virtue of section 31 of this Act in consequence of a breach of any of the conditions required to be observed with respect to the dwelling, or
- (b) paid to them under section 34 of this Act in respect of the dwelling.

(5) Subsections (2) and (4) of this section shall, in the case of a local authority for any area in the Highlands and Islands, have effect with the substitution for the words “three-quarters” of the words “seven-eighths”.

Provisions as to further improvement grants.

36.—(1) An improvement grant shall not be made in respect of the provision of dwellings by means of the conversion of dwellings with respect to which the conditions specified in Schedule 3 to this Act are for the time being required to be observed.

(2) Where by virtue of the making on any occasion of an improvement grant in respect of the improvement of a dwelling the conditions specified in Schedule 3 to this Act are required to be observed with respect to the dwelling before the observance thereof by virtue of the making of an improvement grant on a previous occasion has ceased to be requisite, the provisions of

sections 30, 31, 34, 35(4) and 35(5) of this Act shall apply in relation to the dwelling as regards each occasion on which an improvement grant is so made as if it were the only occasion on which it was so made:

Provided that in relation to any period during which the said conditions are simultaneously required to be observed by virtue of the making of an improvement grant on more than one occasion, the condition as to rent applicable by reason of the making of an improvement grant on the last occasion shall be deemed to be the condition as to rent also by reason of the making of an improvement grant on any previous occasion.

37.—(1) An improvement grant shall not be made in respect of the provision of dwellings by means of the conversion of dwellings in relation to which the conditions specified in section 3 of the Housing (Rural Workers) Act 1926 for the time being apply.

Provisions as to dwellings improved under Housing (Rural Workers) Acts.
1926 c. 56.

(2) Where an improvement grant is made in respect of the improvement of a dwelling in relation to which the said conditions apply at the time when the improvement grant is so made, the Housing (Rural Workers) Acts 1926 to 1942 shall have effect in relation to the dwelling as if the conditions specified in Schedule 3 to this Act were contained in, and applicable by virtue of, section 3(1) of the Housing (Rural Workers) Act 1926 in lieu of the conditions specified therein and in sections 5 and 6 of the Housing (Rural Workers) Amendment Act 1938, and anything which would, or would not, constitute for the purposes of this Part of this Act a breach of the conditions specified in the said Schedule 3 shall be treated as constituting, or, as the case may be, not constituting a breach of those conditions for the purposes of the Housing (Rural Workers) Acts 1926 to 1942.

1938 c. 35.

38.—(1) In the foregoing provisions of this Part of this Act, unless the context otherwise requires, "owner", in relation to a dwelling, means the person who is for the time being entitled to receive the rent of the dwelling or who, if the dwelling were let, would be so entitled, and includes such a lessee as is mentioned in section 28(1)(c) of this Act.

Provisions supplementary to ss. 27 to 37.

(2) References in the foregoing provisions of this Part of this Act or in the following provisions of this section to the improvement of dwellings shall be construed as including references to the alteration or enlargement thereof and to the execution of works of repair thereto, not being works of ordinary repair, and as including also references to the execution of works of ordinary repair thereto so far, but so far only, as the execution thereof is incidental to or connected

PART II with the execution of works of improvement, alteration or enlargement or of works of repair not being works of ordinary repair, and in the said provisions the expression "improved" shall be construed accordingly.

(3) In determining for the purposes of the foregoing provisions of this Part of this Act whether, as regards a dwelling in respect of the provision or improvement of which an improvement grant has been made, a breach has occurred of the condition specified in paragraph 4 of Schedule 3 to this Act as to the rent payable by a tenant of the dwelling, any property which, in the absence of express provision, would pass upon a conveyance in common form of the dwelling, and any yard, garden, outhouse and pertinents belonging to or usually enjoyed with the dwelling, shall be deemed to form part of the dwelling.

(4) A dwelling which has been provided or improved by improvement works under this Part of this Act shall not, by reason only of such provision or improvement, be deemed to be a new house within the meaning of any local Act notwithstanding anything contained in such Act.

Grants by local authorities for provision of standard amenities

Standard amenities.

39.—(1) For the purposes of this Part of this Act, and subject to this section, "the standard amenities", in relation to any dwelling, mean the following amenities provided for the exclusive use of the occupants of the dwelling, that is to say—

- (a) a fixed bath or shower, which, subject to subsection (2) of this section, is to be in a bathroom ;
- (b) a wash-hand basin ;
- (c) a hot and cold water supply at a fixed bath or shower, which, if reasonably practicable, is to be in a bath room ;
- (d) a hot and cold water supply at a wash-hand basin ;
- (e) a hot and cold water supply at a sink ;
- (f) a water closet ; and
- (g) satisfactory facilities for storing food ;

and references in this Part of this Act to the standard amenities shall be construed accordingly.

(2) Subject to this section, the fixed bath or shower mentioned in paragraph (a) of subsection (1) thereof may, if it is not reasonably practicable for it to be provided in a bathroom, but it is reasonably practicable for it to be provided with a hot and cold water supply, be in a part of the dwelling which is not a bathroom or bedroom.

(3) The Secretary of State may by order vary the class of amenities which are the standard amenities, and an order under this subsection may amend or repeal any of the provisions of

subsection (2) of this section or of section 41(5) of this Act and may contain such transitional and other supplemental provisions as may appear to the Secretary of State to be expedient.

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(4) The power to make orders conferred on the Secretary of State by subsection (3) of this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

40.—(1) Subject to the provisions of this Part of this Act, a local authority shall give assistance in respect of the improvement of any dwelling by a person other than a local authority by such works as may be required for the dwelling to be provided with all of the standard amenities by way of making a grant (in this Part of this Act referred to as a “standard grant”) in respect of the cost of executing the works, if an application in that behalf is made by that person to the authority and approved by them before the works are begun and the works are executed to the satisfaction of the authority.

Duty of local authorities to make standard grants.

(2) An application may be made under this section proposing the carrying out of works which comprise the provision of part only of the standard amenities notwithstanding that the dwelling is not already provided with all the remainder of the standard amenities if—

- (a) it is not practicable at reasonable expense to provide the dwelling with all of the standard amenities, and
- (b) after the execution of the works the dwelling will be provided with at least the amenities comprised in the reduced standard as defined in section 86(5) of the principal Act:

Provided that an application shall not be entertained by virtue of this subsection in respect of a dwelling which is or forms part of a house or building as regards which the local authority are satisfied that they have power to serve a notice under section 106 of the principal Act.

(3) An application under this section must specify the dwelling and the works proposed to be carried out and, where those works comprise the provision of part only of the standard amenities, must—

- (a) if the application is made by virtue of subsection (1) of this section, contain a statement that the dwelling is already provided with the remainder;
- (b) if the application is made by virtue of subsection (2) of this section, contain a statement that it is not practicable at reasonable expense to provide the dwelling with all of the standard amenities and give the facts on which the statement is based.

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(4) Subject to subsection (5) of this section, an application under this section must also contain a statement either that the applicant is the occupier of the dwelling or that the occupier has consented in writing to the making of the application.

(5) An application under this section as respects works to be carried out in compliance with an improvement notice served, or an undertaking accepted, under Part IV of the principal Act shall be in such form as the local authority may direct, and subsection (4) of this section shall not apply in respect of such an application.

(6) An application under this section shall not be entertained if it relates to a dwelling provided after the end of the year 1944, unless the dwelling was provided by the conversion before the end of the year 1958 of a building erected before the end of the year 1944.

41.—(1) Subject to subsection (5) of this section, a local authority shall approve an application for a standard grant if—

(a) they are satisfied as to the matters mentioned in subsections (2) and (3) of this section, and

(b) in the case of an application made by virtue of section 40(2) of this Act, they are satisfied also as to the matters mentioned in paragraphs (a) and (b) of that subsection,

and shall not approve any application if not so satisfied.

(2) The local authority must be satisfied that after the execution of the works specified in the application the dwelling will be in such condition as not to be unfit for human habitation, and that it is likely to remain in that condition and available for use as a dwelling for a period of not less than fifteen years.

(3) The local authority must also be satisfied that the applicant is, in respect of every parcel of land on which the works are to be carried out (other than land proposed to be sold or leased to him under section 145(4) of the principal Act), either the owner or the lessee under a lease of which there remains unexpired at the date of the application a period of not less than fifteen years.

(4) In considering an application made by virtue of section 40(2) of this Act the local authority shall have regard to the estimated cost of the works which would be required to provide the dwelling with all of the standard amenities and the value which it is estimated that the dwelling (or the building of which the dwelling forms part) would have if works to provide the dwelling with all of the standard amenities were carried out.

(5) Subsection (1) of this section shall not have effect so as to oblige a local authority to approve an application for a standard

Approval of applications for standard grants.

grant as respect works which include the provision of a fixed bath or shower in a part of a dwelling which is not a bathroom unless the works are to be carried out in compliance with an improvement notice served, or an undertaking accepted, under Part IV of the principal Act.

(6) Where the local authority do not approve an application for a standard grant they shall, if the applicant so requests, give him a written statement of the ground or grounds on which they have not approved it, and if, in the case of an application made by virtue of section 40(2) of this Act, that ground is, or those grounds include, the fact that the authority are not satisfied as to the matters mentioned in paragraphs (a) and (b) of that subsection, the said statement shall set out the reasons why the authority are not so satisfied.

42.—(1) The amount of a standard grant shall, subject to this section, be one-half of the cost shown to have been incurred in executing the works in respect of which it is made. Amount of standard grants.

(2) If any of the works are not exclusively for the purpose of providing one or more of the standard amenities, only so much of the cost of carrying out those works as is, in the opinion of the local authority, attributable to the provision of the standard amenity or standard amenities shall be taken into account under subsection (1) of this section.

(3) Subject to this section, there shall be a limit on the amount of a standard grant determined in accordance with the following Table, and the limit shall depend on the number of items in the following Table which will be provided by the works and shall be the total of the amounts specified in column 2 of that Table for those items or £350, whichever is the less.

TABLE

| <i>List of amenities</i> | <i>Amount allowed towards limit</i> |
|--|--|
| A fixed bath or shower in a bathroom or elsewhere. | £25 or, if the bathroom is being provided by the building of a new structure or the conversion of out-buildings attached to the dwelling (or to the building of which the dwelling forms part) and, before the time when the local authority approve the application, they have been satisfied that it is not reasonably practicable to provide the bathroom in any other way, such higher amount as the local authority shall fix at that time as being in their opinion one-half of the part of the cost to be reasonably incurred in executing the works, being the part of the cost attributable to the provision of the fixed bath or shower. |

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| <i>List of amenities</i> | <i>Amount allowed towards limit</i> |
|--|---|
| A wash-hand basin | £5. |
| A hot and cold water supply at a fixed bath or shower. | £35. |
| A hot and cold water supply at a wash-hand basin. | £15. |
| A hot and cold water supply at a sink. | £25. |
| A water closet | £40 or, if the works comprise the installation of a septic tank and, before the time when the local authority approve the application, they have been satisfied that the connection of the water closet with main drainage is not possible or reasonably practicable, such higher amount as the local authority shall fix at that time as being in their opinion one-half of the part of the cost to be reasonably incurred in executing the works, being the part of the cost attributable to the provision of the water closet. |
| Facilities for storing food ... | £10. |
| If the works comprise, in connection with all or any of the amenities provided, the bringing of a piped supply of cold water into the dwelling for the first time. | Such amount as the local authority shall fix at the time when they approve the application as being in their opinion one-half of the part of the cost to be reasonably incurred in executing the works, being the part of the cost attributable to the bringing of the piped supply into the dwelling. |

(4) The local authority shall, when they approve the application, inform the applicant of any decision taken by them under the Table fixing a higher amount in respect of the cost attributable to the provision of a fixed bath or shower or of a water closet, or fixing any amount in respect of the cost of bringing a piped supply of cold water into the dwelling.

(5) In determining the limit the amount specified for any item in the Table shall not be brought in more than once, and no account shall be taken of any amenity provided by the works if, at the time when the works were begun, the dwelling was provided with an amenity of that kind unless part of the cost incurred in executing the works is attributable to interference with or replacement of that amenity and the local authority are satisfied that it would not have been reasonably practicable to avoid the interference or replacement.

(6) References in this section to the cost incurred in executing or carrying out works shall include references to fees payable to professional persons employed in connection with those works.

(7) The Secretary of State may by order vary the provisions of subsections (3), (4) and (5) of this section in any respect, and an order under this subsection may contain such transitional or other supplemental provisions as appear to the Secretary of State to be expedient.

(8) The power to make orders conferred on the Secretary of State by subsection (7) of this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) Section 21 of the House Purchase and Housing Act 1959 shall not have effect, and this section shall have effect only, in relation to applications for standard grants made on or after 16th August 1964. 1959 c. 33.

43. The provisions of sections 30 to 38 of this Act shall, with the necessary modifications, apply in relation to standard grants as they apply in relation to improvement grants, so, however, that in relation to standard grants sections 36 and 37 of this Act shall each apply with the omission of subsection (1) thereof. Application to standard grants of provisions relating to improvement grants.

Grants by local authorities for provision of new houses for agricultural population

44.—(1) A local authority may, and if so required by the Secretary of State shall, submit to the Secretary of State a scheme or schemes for assisting the provision of housing accommodation in new houses for the agricultural population, and on approval by the Secretary of State of any scheme so submitted a local authority may in accordance therewith give assistance in the manner hereinafter provided. Power of local authorities to make grants in respect of provision of new houses for agricultural population.

(2) Assistance under this section shall be given by way of payment on the completion of the house of a lump sum not exceeding either—

- (a) one-half of the cost of the house, or
- (b) two hundred and forty pounds in the case of a house containing three apartments, or three hundred pounds in the case of a house containing more than three apartments.

(3) Any person applying for assistance under this section shall furnish to the local authority full particulars of the house proposed to be erected, together with a statement, approved by an officer of the authority authorised in that behalf, of the

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estimated cost of the house, and such plans and specifications thereof as the authority may require.

(4) If the local authority approve an application under this section they shall issue to the applicant a certificate of their approval, which shall set out the terms and conditions upon which assistance will be given.

(5) On the completion of the house the applicant shall furnish the local authority with such information as they may require as to the cost of the house and shall satisfy them that it has been erected in accordance with the terms and conditions of the said certificate, and the authority shall not be liable to give assistance under this section until they are so satisfied.

(6) A local authority may in any case refuse to approve an application under this section on any grounds which seem to them sufficient, and shall refuse to approve such an application—

(a) in respect of any house which does not contain at least three apartments of superficial areas not less than such areas as may be specified in the scheme of assistance, and such conveniences as may be so specified;

(b) in respect of any house in respect of which a grant has been made under section 1 of the Hill Farming Act 1946 or under section 77 of the Agriculture (Scotland) Act 1948 or under section 22(2) of the Crofters (Scotland) Act 1955.

1946 c. 73.
1948 c. 45.
1955 c. 21.

(7) Where a local authority refuse to approve an application under this section they shall, if the applicant so requests, notify him in writing of the grounds of their refusal.

(8) In this section the expression “apartment” does not include any apartment not designed for use as a living-room or as a bedroom.

Conditions to
be observed
with respect
to houses.

45.—(1) In the case of a house in respect of the provision of which assistance has been given under section 44 of this Act, the conditions specified in Schedule 4 to this Act shall, subject to the provisions of this Part of this Act, be observed with respect to the house for a period of forty years from the date of its completion and shall, so long as they are required to be so observed, be deemed to be part of the terms of any lease or tenancy of the house granted by the owner thereof, and shall be enforceable accordingly.

(2) Where in the case of any house the condition specified in paragraph 2 of Schedule 4 to this Act is for the time being required to be observed with respect thereto, the local authority may at any time, if satisfied that the house is no longer required

for a member of the agricultural population, waive their right to enforce that condition in relation to that house:

Provided that the power conferred by this subsection shall be exercisable only with the consent of the Secretary of State.

(3) A local authority may make any exercise of the power conferred on them by subsection (2) of this section conditional on the application in relation to the house in question, for such part of the period of forty years from the date of completion of the house as remains unexpired at the time of the exercise, of such other conditions (if any) as the Secretary of State may approve; and section 46 of this Act shall apply in relation to any breach of a condition which is for the time being required to be observed with respect to the house by virtue of this subsection as it applies in relation to a breach of the conditions specified in Schedule 4 to this Act.

46.—(1) In the event of a breach of any of the conditions specified in Schedule 4 to this Act at a time when they are required to be observed with respect to a house, the owner for the time being of the house shall, subject to subsection (2) of this section, forthwith become liable to repay to the local authority the appropriate proportion of the sum paid by the authority under section 44 of this Act by way of assistance in respect of the provision of the house, together with interest on the appropriate proportion as from the date of payment of the sum by the authority. Enforcement of conditions.

In this subsection—

- (a) the expression “the appropriate proportion”, in relation to a sum, means a part thereof proportionate to the extent to which the period during which conditions are required by section 45 of this Act to be observed with respect to the house remains unexpired at the date of the occurrence of the breach; and
- (b) “interest” means compound interest calculated at the prescribed rate and with yearly rests.

(2) If in any case the local authority are satisfied that the breach was not due to the act, default or connivance of the owner of the house, they may, with the consent of the Secretary of State and subject to such conditions (if any) as the Secretary of State may approve, waive the liability of the owner to make repayment under subsection (1) of this section, and in the case of a continuing breach may, with the like consent and subject to such conditions as aforesaid, suspend the enforcement of that liability for such period as appears to them to be necessary for enabling the owner to remedy the breach.

PART II

(3) Upon satisfaction of a liability of an owner of a house to make repayment under subsection (1) of this section to a local authority, observance with respect to the house of the conditions specified in Schedule 4 to this Act shall cease to be requisite.

Voluntary
repayment of
assistance
given under
s. 44.

47. The owner of a house in respect of the provision of which assistance has been given under section 44 of this Act may, at any time when the conditions specified in Schedule 4 to this Act are required to be observed with respect to the house, pay to the local authority the like amount as would become payable to them under section 46 of this Act in the event of a breach at that time of any of those conditions, and on the making of the payment observance with respect to the house of those conditions shall cease to be requisite.

Exchequer
contributions
towards
expenses of
local
authorities
under schemes
of assistance.

48.—(1) The Secretary of State shall, subject to the provisions of this Act, make or undertake to make Exchequer contributions towards the expense incurred by a local authority in giving assistance under section 44 of this Act.

(2) An Exchequer contribution under subsection (1) of this section shall be a sum equal to three-quarters of the annual loan charges referable to the amount paid by way of assistance, payable for each of the forty financial years beginning with the year in which was completed the house in respect of the provision of which the assistance was given.

This subsection shall, in any case where assistance is given in respect of the provision of a house in the Highlands and Islands, have effect with the substitution for the words "three-quarters" of the words "seven-eighths".

(3) For the purposes of this section, the annual loan charges referable to the amount paid by way of assistance shall (whatever may be the manner in which the local authority have provided or intend to provide the money requisite for giving the assistance) be the annual sum which, in the opinion of the Secretary of State, would fall to be provided by the authority for the payment of interest on, and the repayment of, an amount of borrowed money equal to the amount paid by way of assistance, being money the period for the repayment of which is forty years.

(4) In the event of a breach of any of the conditions specified in Schedule 4 to this Act at a time when they are required to be observed with respect to a house, the local authority shall be liable to repay to the Secretary of State in respect of each Exchequer contribution already paid under this section a sum bearing the same proportion to the amount of the Exchequer contribution as the sum (excluding interest) repayable

to the local authority by the owner of the house under section 46 of this Act bears to the sum paid by them by way of assistance, together with interest thereon as from the date on which the Exchequer contribution was paid :

Provided that—

- (a) the provisions of this subsection shall not apply if the liability of the owner to make repayment in respect of the breach of the condition has been duly waived in accordance with section 46(2) of this Act, or if and so long as the enforcement of that liability is duly suspended in accordance with that subsection ;
- (b) if the local authority show to the satisfaction of the Secretary of State that, notwithstanding that they have taken all practicable steps for the purpose, they have been unable to recover the whole or some part of any sum repayable to them by reason of the breach of the condition, the Secretary of State may remit the repayment of the whole or any part of the sum repayable to him under this subsection.

(5) Where under section 47 of this Act any sum is repaid to the local authority in respect of any house, the authority shall be liable to repay to the Secretary of State in respect of each Exchequer contribution already made a sum bearing the same proportion to the amount of the Exchequer contribution as the sum (excluding interest) repaid to the authority bears to the sum paid by them by way of assistance, together with interest thereon as from the date on which the Exchequer contribution was paid.

(6) In this section “interest” means compound interest calculated at the prescribed rate and with yearly rests.

Other forms of financial assistance by local authorities

49.—(1) A local authority may, subject to such conditions as may be approved by the Secretary of State, advance money, subject to the provisions hereinafter contained, to any person for the purpose of—

Power of local authority to make advances for purpose of increasing housing accommodation.

- (a) acquiring houses ;
- (b) constructing houses ;
- (c) converting into houses buildings which have been acquired by that person or acquiring buildings and converting them into houses ; or
- (d) altering, enlarging, repairing or improving houses ;

whether the houses or buildings are within or outside the district of the local authority.

PART II

(2) Before advancing money under this section for the purpose specified in paragraph (a) of subsection (1) thereof the local authority shall satisfy themselves that the house or houses to be acquired is or are, or will be made, in all respects fit for human habitation, and before advancing money under this section for any of the purposes specified in paragraphs (b) to (d) of the said subsection (1) the authority shall satisfy themselves that the house or houses to be constructed, altered, enlarged, repaired or improved or into which the building or buildings is or are to be converted, as the case may be, will, when the construction, alteration, enlargement, repair, improvement or conversion has been completed, be in all respects so fit.

(3) The following provisions shall have effect with respect to an advance under this section :—

- (a) the advance, together with interest thereon, shall be secured by a bond and disposition in security of lands with which the advance is concerned, or by an assignation in security of such a lease of those lands as is mentioned in paragraph (f) of this subsection ;
- (b) the amount of the principal of the advance shall not exceed, in the case of a house or houses to be acquired, the value of the subjects disposed or assigned in security, and, in any other case, the value which it is estimated the subjects disposed or assigned in security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out ;
- (c) the bond and disposition or assignation in security may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined, so however that—
 - (i) in the event of any of the conditions subject to which the advance is made not being complied with, the balance for the time being unpaid shall become repayable on demand by the local authority, and
 - (ii) the said balance may in any event be repaid at any term of Whitsunday or Martinmas by the debtor after one month's written notice of intention to repay has been given to the authority ;
- (d) where the advance is for any of the purposes specified in paragraphs (b) to (d) of subsection (1) of this section it may be made by instalments from time to time as the works of construction, conversion, alteration, enlargement, repair or improvement progress ;
- (e) the advance shall not be made except after a valuation duly made on behalf of the local authority ;

- (f) no advance shall be made unless the estate or interest in the lands proposed to be disposed or assigned in security is either ownership or a lease of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the assignation in security is granted.

In this subsection any reference, in relation to an advance, to a bond and disposition in security shall include a reference to a bond and such other deed of heritable security as may be agreed between the parties making and receiving the advance.

(4) An advance under this section may be made in addition to assistance given by the local authority in respect of the same house under any other Act or any other provision of this Act.

50.—(1) A local authority may, in accordance with proposals in that behalf made by them and approved by the Secretary of State, guarantee the repayment to a building society within the meaning of the Building Societies Act 1962 or a society registered under the Industrial and Provident Societies Act 1965 of any advances, with interest thereon, made by the society to any of its members for the purpose of enabling them to build or acquire houses, whether within or outside the district of the authority.

Power of local authority to guarantee repayment of advances by building societies, etc., and Exchequer contributions to loss thereby incurred.

(2) Where, on the submission to the Secretary of State by a local authority of proposals under this section, the Secretary of State is satisfied that the proposed guarantee extends only to the principal of, and interest on, the amount by which the sum to be advanced by the society in question exceeds the sum which would normally be advanced by it without the guarantee of the authority, and that the liability under the guarantee of the authority cannot be greater than two-thirds of that principal and interest, the Secretary of State, if he approves the proposals, may, with the consent of the Treasury, undertake to make to the authority an Exchequer contribution of not more than one-half of any loss sustained by them under the terms of the guarantee.

1962 c. 37.
1965 c. 12.

51.—(1) A local authority may if they think fit give assistance in respect of the provision of a separate service pipe for a house in their district which has a piped supply of water from a water main, but no separate service pipe.

Power of local authority to assist in provision of separate service water pipes for houses.

(2) Subject to this section, the assistance shall be by way of making a grant in respect of all or any part of the expenses incurred in the provision of the separate service pipe.

(3) If the local authority are themselves the local water authority (as defined in section 5(4) of the Water (Scotland) Act 1946 c. 42. 1946) by whom water will be supplied by means of the separate

PART II

service pipe, and themselves provide or assist in providing the separate service pipe, they may, instead of, or in addition to, making a grant under subsection (1) of this section, remit all or any part of the expenses incurred by them in providing the separate service pipe, being expenses which would otherwise be recoverable from a person having an interest in the house.

(4) The reference to expenses in subsection (2) of this section includes, in a case where all or any part of the works required for the provision of the separate service pipe are carried out by a local water authority as defined as aforesaid (whether in exercise of default powers or in any other case), a reference to sums payable by the owner of the house, or any other person, to the local water authority for carrying out the works.

Miscellaneous and general

Loans by
Public
Works Loan
Commissioners
for provision or
improvement
of housing
accommoda-
tion.

52.—(1) The Public Works Loan Commissioners may, subject to the provisions of this section, lend money to any person entitled to any land either as owner or as lessee under a lease of which a period of not less than fifty years remains unexpired at the date of the loan for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses, and any such person may borrow from the Public Works Loan Commissioners such money as may be required for the purposes aforesaid.

(2) A loan for any of the purposes specified in subsection (1) of this section shall be secured with interest by a heritable security over the land and houses in respect of which that purpose is to be carried out and over such other land and houses, if any, as may be offered as security for the loan.

(3) Any such loan may be made whether the person receiving the loan has or has not power to borrow on bond and disposition in security or otherwise, independently of this Act, but nothing in this Act or the principal Act shall affect any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken or paid up.

(4) The following conditions shall apply in the case of any such loan:—

- (a) the period for repayment shall not exceed forty years ;
- (b) no money shall be lent on the security of any land or houses unless the estate or interest therein proposed to be burdened is either ownership or a lease of which a period of not less than fifty years remains unexpired at the date of the loan ;

(c) the money lent shall not exceed such proportion as is hereinafter authorised of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land or houses proposed to be burdened in pursuance of subsection (2) of this section; but loans may be made by instalments from time to time as the building of houses or other work on the land so burdened progresses, so, however, that the total loans do not at any time exceed the amount aforesaid; and the heritable security may be granted accordingly to secure such loans so to be made from time to time.

(5) The proportion of such value as aforesaid authorised for the purpose of the loan shall be three-fourths:

Provided that if the loan exceeds two-thirds of such value as aforesaid, the Public Works Loan Commissioners shall require, in addition to such heritable security as is mentioned in subsection (2) of this section, such further security as they may think fit.

53.—(1) For the purposes of the provisions of this Part of this Act relating to improvement grants and to standard grants, a tenant, crofter, landholder or statutory small tenant shall be deemed to be the owner of any house, dwelling, building or other land on his farm, croft or holding if in respect of the execution thereon of improvement works or, as the case may be, of works which comprise the provision of any of the standard amenities he would, on the termination of his tenancy, be entitled to compensation under the Agricultural Holdings (Scotland) Act 1949 or the Crofters (Scotland) Acts 1955 and 1961 or the Small Landholders (Scotland) Acts 1886 to 1931 (as the case may be) as for an improvement.

Application of Part II to agricultural tenants, etc.

1949 c. 75.

(2) A tenant, crofter, landholder or statutory small tenant shall, for the purposes of the provisions of this Part of this Act relating to grants by local authorities for the provision of new houses for the agricultural population, be deemed to be the owner of any house on his farm, croft or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Agricultural Holdings (Scotland) Act 1949 or the Crofters (Scotland) Acts 1955 and 1961 or the Small Landholders (Scotland) Acts 1886 to 1931 (as the case may be) as for an improvement.

(3) Where by virtue of subsection (1) of this section an improvement grant or a standard grant is made, or where assistance is given under section 44 of this Act, to a crofter, a landholder or a statutory small tenant in respect of a house or

PART II

dwelling on his croft or holding, the local authority shall forthwith intimate to the landlord of the croft or holding that an improvement grant or a standard grant has been so made or that assistance has been so given, as the case may be, and shall inform him of the amount thereof.

(4) If at any time within the period during which conditions are required by section 30 of this Act (including that section as applied by section 43 thereof), or by section 45 of this Act, to be observed with respect to a house or dwelling provided on a farm, croft or holding otherwise than by the landlord thereof compensation becomes payable in respect of the house or dwelling, or of any works (being improvement works or, as the case may be, works comprising the provision of any of the standard amenities) executed in relation thereto, as for an improvement under the Agricultural Holdings (Scotland) Act 1949 or the Crofters (Scotland) Acts 1955 and 1961 or the Small Landholders (Scotland) Acts 1886 to 1931 (as the case may be), so much of the value of the house or dwelling or works as is attributable to the sum paid by way of improvement grant or standard grant, or by way of assistance under section 44 of this Act, as the case may be, shall be taken into account in assessing the compensation so payable and shall be deducted therefrom.

(5) The landlord of a farm, croft or holding on which there is a house or dwelling with respect to which conditions are for the time being required to be observed by virtue of section 30 of this Act (including that section as applied by section 43 thereof), or of section 45 of this Act, shall not at any time within the period during which those conditions are so required to be observed be entitled to obtain any consideration by way of rent or otherwise in respect of so much of the value of the house or dwelling, or of any works (being improvement works or, as the case may be, works comprising the provision of any of the standard amenities) executed in relation thereto, as is attributable to the sum paid by way of improvement grant or standard grant, or by way of assistance under section 44 of this Act, as the case may be.

Power of
Secretary of
State to make
regulations.

54. The Secretary of State may by statutory instrument make regulations prescribing anything required or authorised by this Part of this Act to be prescribed:

Provided that regulations under this section, other than regulations made for the purposes of section 33(1) of this Act, shall not be made except with the consent of the Treasury.

PART III

GENERAL FINANCIAL PROVISIONS

Abolition or reduction of Exchequer contributions

55.—(1) The Secretary of State may by order direct that, while the order remains in force, such Exchequer contributions as may be specified in the order—

Power of Secretary of State to abolish or reduce certain kinds of Exchequer contribution.

- (a) shall cease to be payable, or
- (b) shall be reduced to such rate or amount as may be specified in the order, or
- (c) shall be payable for such reduced number of years as may be so specified,

either as respects all approved houses, or the cost of such houses or of the sites thereof, or as respects approved houses of such description or in such area only, or the cost of such houses or of the sites thereof, as may be specified in the order.

(2) In this section—

(a) the expression “approved houses” means approved houses within the meaning of section 1 of this Act and approved houses within the meaning of the Housing (Scotland) Act 1962 ; and

1962 c. 28.

(b) the expression “Exchequer contributions” means—

(i) in relation to approved houses of the former class, Exchequer contributions payable under any of the enactments mentioned in Schedule 8 to this Act, so far as such Exchequer contributions are payable to a local authority, and

(ii) in relation to approved houses of the latter class, Exchequer contributions payable under Part I of the said Act of 1962.

(3) An order made under this section shall be so expressed as to apply only to approved houses the proposals in respect of which were or are received by the Secretary of State after such date as may be specified in the order ; and an order may specify for the purposes of this subsection a day earlier than the day of the making of the order :

Provided that—

- (a) in the case of an order made before 10th May 1977, so far as relating to approved houses within the meaning of section 1 of this Act, the order shall not for the purposes of this subsection specify a day earlier than the day on which the draft of the order is laid before the Commons House of Parliament under subsection (4) of this section ;

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(b) an order shall not be made in relation to approved houses within the meaning of the said Act of 1962 before 3rd July 1972.

(4) The power to make orders conferred on the Secretary of State by this section shall be exercisable by statutory instrument and an order shall not be made under this section unless a draft thereof has been laid before the Commons House of Parliament and has been approved by a resolution of that House, and before laying such a draft the Secretary of State shall consult with such associations of recipient authorities (within the meaning of section 1 of this Act) as appear to him to be concerned and with any recipient authority with whom consultation appears to him to be desirable.

Power of Secretary of State to reduce Exchequer contributions under s. 35.

56.—(1) The Secretary of State may from time to time by order provide, as respects improvement grants made under Part II of this Act in pursuance of applications approved by local authorities after such date as may be specified in the order, for reducing the proportion of the annual loan charges referable to the amount of any such grant by reference to which the amount of Exchequer contributions under section 35 of this Act are to be computed:

Provided that the said proportion shall not be reduced to less than two-thirds.

(2) An order under this section providing for reducing the proportion of the annual loan charges referred to in subsection (1) of this section shall provide for reducing to a corresponding extent, in relation to improvement grants made as mentioned in the said subsection, the proportion of any sum required by section 35(4) of this Act to be paid to the Secretary of State.

(3) The power to make orders conferred on the Secretary of State by this section shall be exercisable by statutory instrument and an order shall not be made under this section unless a draft thereof has been laid before the Commons House of Parliament and has been approved by a resolution of that House; and before laying such a draft the Secretary of State shall consult 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.

Provisions as to payment of Exchequer contributions, etc.

Payment and receipt of certain Exchequer contributions.

57.—(1) Exchequer contributions falling to be made—

(a) to a local authority under any of the enactments specified in Schedule 5 to this Act, or under any enactment in this Act (other than section 19 thereof), or

(b) to the Scottish Special Housing Association under section 93 of the Housing (Scotland) Act 1950 or section 23 of the Housing and Town Development (Scotland) Act 1957 or section 26 of this Act, PART III
1950 c. 34.
1957 c. 38.

shall be, and shall be deemed always to have been, payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

(2) It shall be a condition of the right of a local authority to receive any Exchequer contribution payable to them under any of the enactments mentioned in Schedule 8 to this Act that the authority shall carry to the credit of their housing revenue account any amount which falls to be carried by them to the credit of that account by virtue of paragraph 1(4) of Schedule 7 to this Act.

58.—(1) The Secretary of State may, in any of the circumstances mentioned in subsection (3) of this section, reduce the amount of any Exchequer contributions, being Exchequer contributions falling to be made under any of the enactments specified in Schedule 6 to this Act in respect of a particular subsidised unit, or suspend or discontinue the payment of such Exchequer contributions or part thereof, as he thinks just in those circumstances. Power of Secretary of State to reduce, suspend, discontinue or transfer particular Exchequer contributions.

(2) Where such Exchequer contributions fall to be made to a local authority in respect of a subsidised unit in relation to which an annual grant is payable by the authority to a development corporation or a housing association, then, if the amount of the Exchequer contributions is reduced or the payment of the Exchequer contributions or part thereof is suspended or discontinued under this section, the authority may reduce the annual grant to a corresponding or any less extent or suspend the payment thereof, or of a corresponding part thereof, for a corresponding period or discontinue the payment thereof, or of a corresponding part thereof, as the case may be.

(3) The circumstances referred to in subsection (1) of this section are—

- (a) that the Exchequer contributions fall to be made to a local authority and the Secretary of State is satisfied that the authority have failed to discharge any of their duties under the Housing (Scotland) Acts 1950 to 1965 or the principal Act or this Act or that they have failed to exercise any power mentioned therein in any case where any such power ought to have been exercised;
- (b) that the subsidised unit was provided by a development corporation or a housing association in pursuance of authorised arrangements made with a local authority

PART III

or special arrangements made with the Secretary of State, and the Secretary of State is satisfied that the development corporation or housing association have made default in giving effect to the terms of any such arrangements ;

- (c) that the Exchequer contributions fall to be made subject to any conditions and the Secretary of State is satisfied that any of those conditions has not been complied with ;
- (d) that the subsidised unit has been converted, demolished or destroyed ;
- (e) that the subsidised unit is not fit to be used or has ceased to be used for the purpose for which it was intended ;
- (f) that the subsidised unit has been sold or has been leased for a stipulated duration exceeding twelve months ;
- (g) that the subsidised unit has been transferred, whether by sale or otherwise.

(4) Where the Secretary of State's power under subsection (1) of this section to discontinue the payment of the whole or part of any Exchequer contributions falling to be made to a recipient authority in respect of a particular subsidised unit becomes exercisable in the circumstances mentioned in paragraph (f) or paragraph (g) of subsection (3) of this section and the subsidised unit has become vested in or has been leased to another recipient authority, then, if the Secretary of State exercises that power he may make to that other authority Exchequer contributions of the like amount as he would otherwise have made to the first-mentioned authority if the conditions (if any) subject to which the first-mentioned Exchequer contributions fell to be made had been complied with.

(5) In this section—

“ the subsidised unit ” means the house, hostel or other land in respect of which Exchequer contributions fall to be made, whether they fall to be made in respect of it or its site or in respect of land comprising it or in respect of the cost of any houses, or of the acquisition of any land, comprising it ;

and the provisions of section 12 of this Act shall apply for the purposes of this section as they apply for the purposes of sections 1 to 10 of this Act, except that references in this section to special arrangements made by a housing association with the Secretary of State shall include also references to arrangements which the Secretary of State may have made with a housing

association for the provision of houses with a view to their approval under any Act passed before the Housing (Financial Provisions, &c.) (Scotland) Act 1967. PART III
1967 c. 20.

59.—(1) Where under any of the enactments mentioned in subsection (2) of this section (being provisions in pursuance of which payments may be made by local authorities by way of financial assistance in connection with the provision or improvement of housing accommodation) a periodical payment would, apart from this section, have fallen to be made on or after 1st January 1951 in respect of a house to any person other than a local authority, that payment shall not be made if, before the making thereof, the Secretary of State is satisfied that, during the whole or the greater part of the period to which the payment is referable, the house has not been available as a dwelling fit for human habitation : Effect on certain payments of house ceasing to be available as such.

Provided that nothing in this subsection shall prevent the making of a periodical payment in respect of any house if the Secretary of State is satisfied that the house could not with reasonable diligence have been made available, during the whole or the greater part of the period to which the payment is referable, as a dwelling fit for human habitation.

Any question as to the period to which any payment is referable shall be determined for the purposes of this subsection by the Secretary of State.

(2) The enactments referred to in subsection (1) of this section are—

- | | |
|---|-------------|
| section 2 of the Housing, &c. Act 1923, | 1923 c. 24. |
| sections 1 and 2 of the Housing (Rural Workers) Act 1926, | 1926 c. 56. |
| section 100 of the Housing (Scotland) Act 1950. | 1950 c. 34. |

(3) Where the power or duty of a local authority to make any payment is wholly or partly discharged by virtue of subsection (1) of this section, the Secretary of State may make such consequential reductions as he thinks appropriate in any Exchequer contributions payable to the authority.

Accounts

60.—(1) Every local authority shall keep an account (to be called "the housing revenue account") of the income and expenditure of the authority in respect of— The housing revenue account.

(a) all houses and other buildings which have been provided at any time after 12th February 1919 under—

- (i) Part III of the Housing (Scotland) Act 1925, or 1925 c. 15.

PART III

(ii) any enactment relating to the provision of housing accommodation for the working classes repealed by that Act, or

1950 c. 34.

(iii) Part V of the Housing (Scotland) Act 1950,

or

(iv) Part VII of the principal Act ;

(b) all land which at any time after the said date has been acquired or appropriated for the purposes of any of the enactments mentioned or referred to in paragraph (a) of this subsection, or which is deemed to have been acquired under Part III of the said Act of 1925 by virtue of section 15(4) of the Housing (Scotland) Act 1935 ;

1935 c. 41.

(c) all dwellings in respect of which the Secretary of State has undertaken to make an Exchequer contribution to the local authority under section 35 of the said Act of 1935 ;

(d) all dwellings provided or improved by the local authority in accordance with improvement proposals approved by the Secretary of State under—

1949 c. 61.

(i) section 2 of the Housing (Scotland) Act 1949,

or

(ii) section 105 of the said Act of 1950, or

(iii) section 13 of this Act ;

and all land acquired or appropriated by the authority for the purpose of carrying out such proposals ;

(e) all houses approved by the Secretary of State for the purposes of—

1954 c. 50.

(i) section 4 of the Housing (Repairs and Rents) (Scotland) Act 1954, or

(ii) section 19 of this Act ;

(f) such other houses as the local authority with the consent of the Secretary of State may from time to time determine.

(2) Where a house is for the time being vested in a local authority by reason of the default of any person in carrying out the terms of any arrangements under which assistance in respect of the provision, reconstruction or improvement of the house has been given under any enactment relating to housing, the house shall be deemed for the purposes of subsection (1) of this section to be a house which has been provided by the authority under Part VII of the principal Act.

(3) Notwithstanding subsection (1) of this section, a building provided or converted for use as a hostel or as part of a hostel and approved by the Secretary of State for the purposes of section 27(1) of the Housing (Scotland) Act 1949 or section 89(1) of the Housing (Scotland) Act 1950 or section 21(1) of this Act shall not be included amongst the buildings in respect of which the local authority are required by subsection (1) of this section to keep a housing revenue account: 1949 c. 61.
1950 c. 34.

Provided that if at any time the Secretary of State is satisfied that the building has ceased to be used as a hostel or as part of a hostel he may direct that it shall be so included.

(4) The provisions of Schedule 7 to this Act shall have effect as respects the keeping by a local authority of the housing revenue account.

61.—(1) Subject to the provisions of this section, every local authority shall for the purpose of equalising so far as practicable the annual charge to their revenue in respect of the repair, improvement and maintenance of houses, buildings and dwellings in respect of which the housing revenue account is to be kept, keep an account (to be called “the housing repairs account”) and shall in each financial year carry to the credit of that account from the housing revenue account in respect of each house, building and dwelling such amount as they may think proper, not being less than eight pounds, and such amount, if any, as may be necessary to make good any deficit shown in the housing repairs account at the end of the last preceding financial year. The housing repairs account.

(2) Subject to the provisions of this Act, moneys standing to the credit of the housing repairs account shall be applied only in meeting expenses incurred in respect of the repair, improvement and maintenance of the houses, buildings and dwellings in respect of which the housing revenue account is to be kept.

(3) If at any time it appears to the Secretary of State, after consultation with the local authority, that the moneys standing to the credit of the housing repairs account are more than sufficient for the purposes for which the account is to be kept or that it is no longer necessary for the account to be kept, he may give such directions as he thinks proper for the reduction of the amounts to be credited to the account or the suspension of the carrying of credits thereto, or for the closing of the account and the application of any moneys standing to the credit thereof, as the case may be.

PART III
The housing equalisation account.

62.—(1) Every local authority shall, if they think it desirable for the purpose of equalising the income of the housing revenue account derived from Exchequer contributions payable to them under any of the enactments mentioned in Schedule 8 to this Act over any period during which loan charges required to be debited to the housing revenue account will be payable, keep an account (to be called “the housing equalisation account”) and shall, if they keep such an account, carry to the credit of that account from the housing revenue account such sums, and shall apply an amount equal to the sums so credited in such manner, as may be prescribed.

(2) Where a local authority close their housing equalisation account, they shall carry to the credit of their housing revenue account any sums standing to the credit of their housing equalisation account when it is closed.

Temporary application of moneys in housing accounts.

63.—(1) An amount equal to any moneys standing to the credit of the housing repairs account or the housing equalisation account of a local authority, and not for the time being required for the purposes for which they will ultimately be applicable, may be used by the authority for the purpose of any statutory borrowing power possessed by them subject to the conditions specified in subsection (2) of this section, and so far as not so used shall be invested temporarily in any security in which trustees are for the time being authorised by law to invest, and an amount equal to the income from such investment shall be credited to the account.

(2) The conditions subject to which moneys may be used as mentioned in subsection (1) of this section shall be the following, that is to say—

- (a) the moneys so used shall be repaid to the account out of the county or burgh fund within the period, and by methods, within and by which a loan raised under the statutory borrowing power would be repayable :

Provided that the local authority shall repay to the account the moneys so used or the balance thereof for the time being outstanding, as the case may be, as and when required for the purposes of the account, and may make such repayment at any time within the period aforesaid, and in either case the repayment shall be made out of the said fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power :

- (b) in the accounts of the county or burgh fund an amount equal to interest (calculated at such rate as may be determined by the local authority to be equal as nearly as may be to the rate of interest which would be payable on a loan raised under the statutory borrowing power) on any moneys so used shall be credited to the account and debited to the branch of expenditure for the purpose for which the moneys are so used ;
- (c) the statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power, and the provisions of any enactment as to the re-borrowing of sums raised under the statutory borrowing power shall apply accordingly.
- PART III

Borrowing by local authorities

64. Without prejudice to any power of borrowing conferred on them by any other enactment, a local authority may borrow money for the purposes of—

Power of local authorities to borrow for purposes of certain enactments. 1950 c. 34.

- (a) the following provisions of the Housing (Scotland) Act 1950, namely, sections 100 and 104 and Part VII ;
- (b) the following provisions of this Act, namely, sections 13, 15, 17, 18, 24, 27 to 32, 34 to 38, 48, 49 and 52.

Government payments and receipts

65.—(1) Except in so far as otherwise expressly provided in this Act, there shall be paid out of money provided by Parliament—

Government payments and receipts.

- (a) all sums payable and all expenses incurred by the Secretary of State under this Act ; and
- (b) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.
- (2) Except in so far as otherwise expressly provided in this Act, there shall be paid into the Consolidated Fund—
- (a) any receipts of the Secretary of State under this Act ; and
- (b) any other sums falling to be so paid in consequence of any of the provisions of this Act.

PART IV

SUPPLEMENTAL

Application
of provisions
of Housing
(Scotland) Act
1966.

66. The following provisions of the principal Act shall apply as if references therein to that Act included references to this Act, that is to say—

- section 1 (definition of local authority for purposes of Act),
- section 2 (power of local authority to appoint committee),
- section 5 (determination of unfitness of house for human habitation),
- section 165 (power of local authority to issue local bonds),
- section 183 (except paragraphs (b) to (g) of subsection (1) thereof) (power of entry for survey, etc.),
- section 184 (penalty for obstructing execution of Act),
- section 191 (authentication of orders, etc., by local authority),
- section 193(1) (default of local authority),
- sections 196 to 198 (provisions regarding orders, forms and regulations),
- sections 200 to 202 (provisions regarding exercise of functions by Secretary of State).

Interpretation.

67.—(1) Subject to subsection (2) of this section, and except in so far as the context otherwise requires, expressions used in this Act and in the principal Act have the same meaning in this Act as in that Act.

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

“development corporation” means a development corporation within the meaning of the New Towns (Scotland) Act 1968 ;

“Exchequer contribution” means a payment (other than a payment by way of advance or loan) which the Secretary of State is required or authorised by or under this Act, or any Act relating to housing passed before the commencement of this Act, to make for housing purposes ;

1968 c. 16.

- “ financial year ”**, in relation to a local authority, has the same meaning as in section 174 of the Local Government (Scotland) Act 1947 ; PART IV
1947 c. 43.
- “ Highlands and Islands ”** means the area comprising the counties of Argyll, Caithness, Inverness, Ross and Cromarty, Sutherland, Orkney and Zetland, but excluding any large burgh ;
- “ loan charges ”** means, in relation to any borrowed moneys, the sums required for the payment of interest on those moneys and for the repayment thereof either by instalments or by means of a sinking fund ;
- “ the principal Act ”** means the Housing (Scotland) Act 1966 c. 49. 1966.

(3) Any reference in this Act to any enactment shall be construed as including a reference to that enactment as amended, extended or applied by or under any other enactment including, unless the context otherwise requires, this Act.

68.—(1) Without prejudice to section 70 of this Act, any reference in any provision of this Act to, or to things done or falling to be done under, this Act or the principal Act or the Housing (Scotland) Act 1950 or the Housing (Scotland) Act 1925 or any provision of any of those Acts shall, in so far as the context permits, be construed as including, in relation to times, circumstances and purposes in relation to which the enactments repealed by this Act or by the principal Act or by the Housing (Scotland) Act 1950 or by the Housing (Scotland) Act 1925, or the corresponding provision of any of those enactments, had effect, a reference to, or to things done or falling to be done under, those enactments or, as the case may be, that corresponding provision : Construction
of references
to this Act,
etc.
1950 c. 34.
1925 c. 15.

Provided that this subsection shall not have effect in relation to section 60 of, or Schedule 7 to, this Act.

(2) Nothing in this section or section 69 or section 70 of this Act shall be taken as affecting the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals. 1889 c. 63.

69. The principal Act shall have effect subject to the amendments specified in Schedule 9 to this Act, being amendments consequential on the provisions of this Act. Consequential
amendment
of Housing
(Scotland)
Act 1966.

PART IV
Repeals and
savings.

70.—(1) Subject to the provisions of this section, the enactments mentioned in Schedule 10 to this Act are hereby repealed to the extent specified in relation thereto in column 3 of that Schedule.

(2) The repeal by this Act of any enactment shall not affect—

(a) any order, regulation, rule or other instrument made or having effect as if made under that enactment, or

(b) any agreement, application, approval, condition, determination, undertaking or other thing made, given, imposed or done, or having effect as if made, given, imposed or done, under that enactment,

and any such instrument or other thing shall, if in force at the commencement of this Act, continue in force and so far as it could have been made, given, imposed or done under this Act, have effect, and be treated, as if made, given, imposed or done under the corresponding provision of this Act.

(3) The repeal by this Act of any enactment re-enacted in this Act shall not affect any existing undertaking or other liability to make a periodical or other payment after the commencement of this Act, and the provisions of this Act shall apply so as to require that payment to be made under the corresponding provision of this Act.

1967 c. 20.

(4) The repeal by this Act of any enactment shall not affect the saving contained in section 11(1) of the Housing (Financial Provisions, &c.) (Scotland) Act 1967 in relation to the enactments repealed by the said section 11(1) and mentioned in Schedule 3 to the said Act.

1950 c. 34.

1925 c. 15.

(5) So much of any enactment or other document as refers expressly or by implication to any enactment repealed by this Act or by the Housing (Scotland) Act 1950 or by the Housing (Scotland) Act 1925 shall, in so far as the context permits and as may be necessary to preserve the effect of the first-mentioned enactment or other document, be construed as referring, or (as the case may require) as including a reference, to this Act or the corresponding enactment therein.

(6) The repeal by this Act of any provision of any Act shall not affect the application of that provision to any other provision of that Act which is not repealed by this Act.

71.—(1) This Act may be cited as the Housing (Financial Provisions) (Scotland) Act 1968. PART IV
Short title,
commence-
ment and
extent.

(2) This Act shall come into force on the expiration of a period of three months beginning with the date on which it is passed.

(3) This Act shall extend to Scotland only.

SCHEDULES

SCHEDULE 1

DETERMINATION OF COST OF SITE

1. For the purposes of this Act the cost of a site shall be taken to be—

- (a) if the site was acquired by a local authority under any enactment relating to housing, the expenses incurred by the authority in connection with the acquisition ;
- (b) if the site was acquired by a local authority otherwise than under any such enactment, such amount as the Secretary of State may determine, having regard to the purposes for which the site was acquired, the expenses incurred in connection with the acquisition, the time elapsed since the acquisition and the use made of the site before its appropriation for housing purposes ;
- (c) if the site was acquired by a recipient authority other than a local authority, either of the following, as the Secretary of State may determine, having regard to the matters mentioned in sub-paragraph (b) of this paragraph, that is to say—
 - (i) the expenses incurred by the recipient authority in connection with the acquisition ; or
 - (ii) the value of the site as certified by the Secretary of State.

2. For the purposes of this Act, any question as to—

- (a) what constitutes a separate site, or
- (b) on what part of such a site any building has been erected, or
- (c) how much of any expenses incurred by a local authority in connection with the acquisition of any land is to be attributed to any site forming part only of the land,

shall be determined by the Secretary of State.

3. For the purposes of any determination under sub-paragraph (a) or sub-paragraph (b) of paragraph 2 of this Schedule—

- (a) where two buildings are contiguous to each other, or are separated from each other by a street only, the two buildings shall, if the Secretary of State thinks proper, be deemed to be on the same site ; and
- (b) where any land has been acquired in connection with the provision of a building and has been or is to be used for the purpose of a new street to which the building is or will be contiguous, that land shall be deemed to form part of the site of the building.

4. In this Schedule—

“building” includes any land appertaining to a building and any land appropriated for the purposes of a building which has not been erected ; and

“street” includes a public highway and any court, alley, passage or square, whether a thoroughfare or not.

SCHEDULE 2

Section 5.

ASCERTAINMENT OF ADDITIONAL EXCHEQUER CONTRIBUTIONS FOR
HOUSES PROVIDED BY LOCAL AUTHORITIES WITH SPECIAL FINANCIAL
DIFFICULTIES

PART I

Interpretation

1. In this Schedule—

- (a) “relevant financial year,” in relation to any house, means the financial year preceding that in which the house was completed ;
- (b) references in relation to a local authority to the product of a rate of a specified sum are references to the product of a rate of that sum in the pound for the district of the local authority for the relevant financial year, and section 9(1) of the Local Government (Financial Provisions) (Scotland) Act 1963 c. 12. shall apply for the purpose of calculating that product.

PART II

Calculation of Exchequer contribution

2.—(1) A comparison shall be made between—

- (a) the total of the amounts carried to the credit of the local authority's housing revenue account, as adjusted in accordance with this paragraph, for the relevant financial year (in this paragraph referred to as the “credits”), and
- (b) the total of the amounts carried to the debit of that account, as adjusted as aforesaid, for that year (in this paragraph referred to as the “debits”).

(2) For the purposes of the comparison required by subparagraph (1) of this paragraph—

- (a) it shall be assumed that in the credits, for the income for the relevant financial year from rents in respect of the houses to which the said account relates and any amounts carried to the credit of the account for that year under subparagraphs (4) and (5) of paragraph 1 of Schedule 7 to this Act, there has been substituted an amount equal to the local authority's total housing valuation for the relevant financial year multiplied by the fraction determined in respect of the relevant financial year by the Secretary of State in accordance with Part IV of this Schedule ;
- (b) there shall be excluded from the debits any expenditure by way of rebates from rents ;
- (c) there shall be excluded from the debits any surplus shown in the account at the end of the relevant financial year and from the credits any surplus brought forward from the account for the immediately preceding financial year.

(3) If it appears to the Secretary of State that any amount, or part of any amount, carried to the credit or to the debit of the local authority's housing revenue account for the relevant financial year ought to be left out of account for the purposes of the comparison required as aforesaid, he may, after consulting the authority, direct

SCH. 2 that for the purposes of that comparison the said amount or part of that amount shall be excluded from the credits or from the debits, as the case may be.

3. If on the comparison required as aforesaid being made there is a deficit, the amount of that deficit shall be reduced by the amount which bears to that deficit—

1954 c. 13.

(a) in the case of any house completed before the first day of the financial year commencing in 1968, the same proportion as the amount of the exchequer equalisation grant payable to the local authority for the relevant financial year under the Local Government (Financial Provisions) (Scotland) Act 1954 bears to the authority's relevant local expenditure as certified by the Secretary of State to have been estimated under the said Act of 1954 according to the latest estimate made before the end of the relevant financial year ; and

1966 c. 51.

(b) in the case of any house completed on or after the first day of the financial year commencing in 1968, the same proportion as the amount of the resources element of the rate support grant payable to the local authority for the relevant financial year under the Local Government (Scotland) Act 1966 bears to the authority's relevant local expenditure as certified by the Secretary of State to have been estimated according to the latest estimate made before the end of the relevant financial year, as calculated for the purposes of Part II of Schedule 1 to that Act in accordance with the provisions of paragraphs 4 and 5 of the said Part II,

and where the amount of the deficit as so reduced exceeds the product of a rate of two shillings and sixpence, the Secretary of State shall pay to the authority an additional Exchequer contribution, the amount of which shall be determined according to the following Table—

TABLE

| Where the amount of the local authority's reduced deficit— | Amount of additional Exchequer contribution— |
|--|--|
| exceeds the product of a rate of two shillings and sixpence but not of a rate of three shillings and sixpence | fifteen pounds |
| exceeds the product of a rate of three shillings and sixpence but not of a rate of four shillings and sixpence | thirty pounds |
| exceeds the product of a rate of four shillings and sixpence but not of a rate of five shillings and sixpence | forty-five pounds |
| exceeds the product of a rate of five shillings and sixpence but not of a rate of six shillings and sixpence | sixty pounds |
| exceeds the product of a rate of six shillings and sixpence | seventy-five pounds |

4.—(1) This paragraph applies to any house completed on or after the first day of the financial year commencing in 1967.

SCH.

(2) Paragraph 3 of this Schedule shall apply to any house to which this paragraph applies, but as if for the references to the sum of two shillings and sixpence and to each of the sums listed in column 1 of the Table there were substituted respectively references to each of those sums adjusted by—

(a) dividing by the estimated aggregate product of a penny rate for the areas of all local authorities for the relevant financial year or, where that year was not a year of revaluation, for the last preceding year of revaluation, and

(b) multiplying by the said estimated aggregate for the financial year commencing in 1965,

and rounded off to the nearest penny.

(3) In sub-paragraph (2) of this paragraph, “year of revaluation” has the same meaning as in section 9 of the Valuation and Rating 1956 c. 60. (Scotland) Act 1956.

5. For the purposes of the calculations required by this Part of this Schedule to be made in relation to any local authority for any financial year there shall be used such accounts, whether provisional or final, of the authority (being accounts for that financial year) as the Secretary of State may direct; and if provisional accounts are used nothing in this Part of this Schedule shall be taken to require the making of any recalculation on the final accounts becoming available.

PART III

Ascertainment of total housing valuation for the relevant financial year

6. For the purposes of this Schedule a local authority's total housing valuation for any relevant financial year shall be ascertained in accordance with this Part of this Schedule.

7. There shall be ascertained—

(a) the aggregate of the gross annual values of all the houses to which the local authority's housing revenue account related at the end of the relevant financial year, and

(b) the aggregate of the gross annual values of all the houses to which the local authority's housing revenue account related at the end of the financial year immediately preceding the relevant financial year:

Provided that in ascertaining the said aggregates there shall be excluded such part of the gross annual value of any house as may be certified by the assessor to be attributable to any garage provided otherwise than by the local authority.

8. The amounts ascertained under paragraph 7 of this Schedule shall be added together and their sum shall be divided by two; and the result shall be the local authority's total housing valuation for the relevant financial year.

SCH. 2

9. Where, by reason of a change in the areas of local authorities, houses are transferred from one local authority to another local authority, the Secretary of State may, having regard to the gross annual values of the houses and the date and circumstances of their transfer, direct that such other method of calculation as he may consider appropriate shall be used for the purposes of this Part of this Schedule in lieu of the method of calculation specified in the two last foregoing paragraphs.

1956 c. 60.

10. Any reference in this Part of this Schedule to the gross annual value of a house to which a local authority's housing revenue account related at the end of any financial year shall be construed as a reference to the gross annual value of that house, determined under section 6 of the Valuation and Rating (Scotland) Act 1956, as shown in the valuation roll in operation on the first day of the financial year immediately following the financial year in question ; so however that if no gross annual value determined as aforesaid is shown for that house in that valuation roll the reference shall be construed as a reference to such value as may be estimated by the assessor to be the gross annual value, determined as aforesaid, of the house.

11. References in this Part of this Schedule to the assessor, in relation to any house, are references to the assessor appointed under section 1 of the Valuation and Rating (Scotland) Act 1956, for the area in which the house is situated.

PART IV

Determination of fraction referred to in paragraph 2(2)(a) of this Schedule

12.—(1) The Secretary of State shall estimate—

- (a) the aggregate of the total amounts carried to the credit of the housing revenue accounts of all local authorities for the relevant financial year,
- (b) the aggregate of the total amounts carried to the debit of those accounts for that year, and
- (c) the aggregate of the total housing valuations of all local authorities for that year.

(2) For the purposes of sub-paragraph (1) of this paragraph—

- (a) it shall be assumed that in the credits, for the income for the relevant financial year from rents in respect of the houses to which the said accounts relate and any amounts carried to the credit of the accounts for that year under sub-paragraphs (4) and (5) of paragraph 1 of Schedule 7 to this Act, there has been substituted an amount equal to one-third of the aggregate of the Exchequer contributions payable to the said authorities for that year under any of the enactments mentioned in Schedule 8 to this Act ;
- (b) sub-paragraphs (2)(b) and (c) and (3) of paragraph 2 of this Schedule shall apply in like manner as they apply for the purposes of the comparison required by sub-paragraph (1) of the said paragraph.

13. The amount by which the estimated aggregate of the debits referred to in head (b) of paragraph 12(1) of this Schedule exceeds the estimated aggregate of the credits referred to in head (a) of the said paragraph 12(1) shall be expressed as a fraction of the estimated aggregate of the total housing valuations referred to in head (c) of the said paragraph 12(1).

SCH. 2

SCHEDULE 3

Sections 30-34,
36-38, 43.

CONDITIONS TO BE OBSERVED WITH RESPECT TO DWELLINGS PROVIDED
OR IMPROVED WITH THE HELP OF IMPROVEMENT GRANTS OR STANDARD
GRANTS

1. The dwelling shall not be used for purposes other than those of a private dwelling-house.

For the purposes of this paragraph, a dwelling shall not be deemed to be used for purposes other than those of a private dwelling-house by reason only that part thereof is used as a shop or office, or for business, trade or professional purposes.

2. All reasonable steps shall be taken to secure the maintenance of the dwelling so as to be in all respects fit for human habitation.

3. The dwelling shall at all times at which it is not occupied—

- (a) by the applicant for the grant or a member of his family ;
or
- (b) where the applicant is a trustee within the meaning of the Trusts (Scotland) Act 1921, by a person who under the 1921 c. 58. trust is interested in the dwelling or the proceeds of sale thereof, or by a member of the family of such a person ; or
- (c) by a person who on the death of the applicant has (whether or not in consequence of a disposition by will) become beneficially entitled to, or to an interest in, the interest of the applicant in the dwelling or in the proceeds of sale thereof, or by a member of the family of such a person ; or
- (d) by a member of the agricultural population in pursuance of a contract of service and otherwise than as a tenant ;

be let or kept available for letting :

Provided that this paragraph shall not apply to a dwelling held upon trust for any charitable purpose within the meaning of the Income Tax Act 1952 so long as it is occupied or kept available 1952 c. 10. for occupation for that purpose.

4. Subject to the provisions of subsections (4) and (5) of section 32 of this Act, the rent payable by a tenant of the dwelling shall not exceed—

- (a) in a case where a maximum rent with respect to the dwelling has been fixed under subsection (1) of the said section 32, the amount thereof ;

SCH. 3

(b) in any other case, and subject to the provisions of section 32(3) of this Act, an amount equal to the aggregate of—

(i) the rent at which the dwelling was last let before the improvement works were begun, and

(ii) a sum calculated at a rate per annum not exceeding the appropriate percentage of the fraction of the approved expense of executing the improvement works or of the approved proportion of that expense (according as the works were for the improvement of a single dwelling or of two or more dwellings) that fell to be borne by the applicant for the grant ; and

(iii) any sum recoverable in respect of the dwelling by way of repairs increase or by way of 1957 Act increase (other than any such sum included in the rent referred to in head (i) above),

and no fine, premium or other like sum shall be taken in addition to the rent.

In this paragraph—

“appropriate percentage” means, in a case where the application for the grant was made before 3rd July 1962, eight per cent. and, in a case where the application was made on or after that date, twelve and one half per cent. ;

1954 c. 50.

“repairs increase” has the same meaning as in the Housing (Repairs and Rents) (Scotland) Act 1954 ; and

1957 c. 25.

“1957 Act increase” has the same meaning as in the Rent Act 1957.

5. The owner of the dwelling shall, on being required so to do by the local authority, certify that the conditions specified in paragraphs 1, 3 and 4 of this Schedule are being observed with respect to the dwelling, and any tenant of the dwelling shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with this condition.

6. In the event of a tenant assigning his interest in, or otherwise parting with the possession of, the dwelling, it shall not be lawful for any person in consideration thereof to make any payment other than rent or for the tenant to receive, directly or indirectly, any such payment.

7. Where the dwelling is occupied for the time being by a member of the agricultural population in pursuance of a contract of service, then if that contract is determined—

(a) by less than four weeks' notice given by the employer, or

(b) by dismissal of the employee without notice, or

(c) by the death of either party,

the employer or his personal representative shall permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy the dwelling free of charge from the determination of the contract until the expiration of a period of

four weeks beginning with the date on which the notice is given or, if the contract is determined otherwise than by notice, with the date on which it is determined.

SCH. 3

In this paragraph "occupied" means occupied otherwise than by a tenant, and "occupy" shall be construed accordingly.

SCHEDULE 4

Sections 45-48.

CONDITIONS TO BE OBSERVED WITH RESPECT TO HOUSES PROVIDED WITH ASSISTANCE UNDER SECTION 44

1. The house shall be so maintained as to be in all respects fit for human habitation.

2. Subject to the provisions of section 45(2) of this Act, the house shall not be occupied otherwise than by a member of the agricultural population.

3. The house shall not be let at a rent exceeding—

(a) except in such a case as is mentioned in head (b) of this paragraph, the rent fixed by the local authority at the time when they approved the application for assistance ;

(b) in a case to which paragraph 9 of Schedule 3 to the Valuation and Rating (Scotland) Act 1956 applies, the rent so fixed reduced by virtue of the said paragraph 9. 1956 c. 60.

4. Where the house is occupied for the time being by a member of the agricultural population in pursuance of a contract of service, then if that contract is determined—

(a) by less than four weeks' notice given by the employer,

(b) by dismissal of the employee without notice, or

(c) by the death of either party,

the employer or his personal representative shall permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy the house free of charge from the determination of the contract until the expiration of a period of four weeks beginning with the date on which the notice is given or, if the contract is determined otherwise than by notice, with the date on which it is determined.

In this paragraph "occupied" means occupied otherwise than by a tenant, and "occupy" shall be construed accordingly.

5. The owner of the house shall from time to time, on being so required by the local authority, furnish to the authority a certificate to the effect that the conditions specified in this Schedule are being observed with respect to the house, and any tenant of the house shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with this condition.

**CH. 31 *Housing (Financial Provisions) (Scotland)
Act 1968***

SCHEDULE 5

ENACTMENTS REFERRED TO IN SECTION 57(1)

The Housing, Town Planning, &c. (Scotland) Act 1919.
(9 & 10 Geo. 5 c. 60)

The Housing, &c. Act 1923.
(13 & 14 Geo. 5 c. 24)

The Housing (Financial Provisions) Act 1924.
(14 & 15 Geo. 5 c. 35)

The Housing (Scotland) Act 1925.
(15 & 16 Geo. 5 c. 15)

The Housing (Rural Workers) Acts 1926 to 1942.

The Housing (Scotland) Act 1930.
(20 & 21 Geo. 5 c. 40)

The Housing (Rural Authorities) Act 1931.
(21 & 22 Geo. 5 c. 39)

The Housing (Financial Provisions) (Scotland) Act 1933.
(23 & 24 Geo. 5 c. 16)

The Housing (Scotland) Act 1935.
(25 & 26 Geo. 5 c. 41)

The Housing (Agricultural Population) (Scotland) Act 1938.
(1 & 2 Geo. 6 c. 38)

The Housing (Financial Provisions) (Scotland) Act 1938.
(2 & 3 Geo. 6 c. 3)

The Housing (Scotland) Act 1950.
(14 Geo. 6 c. 34)

The Housing and Town Development (Scotland) Act 1957.
(5 & 6 Eliz. 2. c. 38)
Sections 2 and 3.

The Housing (Scotland) Act 1962.
(10 & 11 Eliz. 2. c. 28)
Part I.

SCHEDULE 6

ENACTMENTS REFERRED TO IN SECTION 58(1)

The Housing, Town Planning, &c. (Scotland) Act 1919.
(9 & 10 Geo. 5 c. 60)
Sections 5 and 16.

The Housing, &c. Act 1923.
(13 & 14 Geo. 5 c. 24)
Sections 1 and 3.

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The Housing (Rural Workers) Act 1926.
(16 & 17 Geo. 5 c. 56)
Section 4.

The Housing (Scotland) Act 1930.
(20 & 21 Geo. 5 c. 40)
Section 23.

The Housing (Rural Authorities) Act 1931.
(21 & 22 Geo. 5 c. 39)
Section 1.

The Housing (Scotland) Act 1935.
(25 & 26 Geo. 5 c. 41)
Sections 26, 30 and 35.

The Housing (Agricultural Population) (Scotland) Act 1938.
(1 & 2 Geo. 6 c. 38)
Section 1.

The Housing (Financial Provisions) (Scotland) Act 1938.
(2 & 3 Geo. 6 c. 3)
Sections 1 and 2.

The Housing (Scotland) Act 1950.
(14 Geo. 6 c. 34)
Sections 84 to 88, 89(3) and (4), 91, 93, 104, 105, 110 and 121.

The Housing and Town Development (Scotland) Act 1957.
(5 & 6 Eliz. 2 c. 38)
Sections 2, 3 and 23.

The Housing (Scotland) Act 1962.
(10 & 11 Eliz. 2 c. 28)
Sections 1 to 7, 9, 12(3) and 14.

The Housing Act 1964.
(1964 c. 56)
Section 92.

This Act.
Part I, Part II (except sections 26 and 50) and section 58(4).

SCHEDULE 7

THE HOUSING REVENUE ACCOUNT

1.—(1) In each financial year a local authority shall carry to the credit of the housing revenue account amounts equal to—

- (a) the income receivable by the local authority for that year from rents and feu duties in respect of houses and other property to which the account relates ;
- (b) any Exchequer contributions payable to the local authority for that year under any of the enactments mentioned in Schedule 8 to this Act, together with any Exchequer contributions payable to them under section 87(2) or 87(4) of the Housing (Scotland) Act 1950 or under section 9(2) or 9(4) of the Housing (Scotland) Act 1962 or under section 92(2), as read with section 92(10), of the Housing Act 1964 ;
- (c) any payments received by the local authority from another local authority in pursuance of any overspill agreement within the meaning of Part II of the Housing and Town Development (Scotland) Act 1957, being payments such as are mentioned in paragraph 2(g) of this Schedule ;
- (d) any contributions received by the local authority under section 101(1) of the Housing Act 1964, in so far as amounts equal to the expenditure towards which those contributions are made fall to be debited to the account.

1950 c. 34.
1962 c. 28.
1964 c. 56.

1957 c. 38.

(2) Where any house or other property to which the account relates has been sold or otherwise disposed of, whether before or after the commencement of this Act, an amount equal to any income of the local authority arising from the investment or other use of capital money received by the authority in respect of the transaction shall, unless the Secretary of State otherwise directs as respects the whole or any part of such income, be carried to the credit of the account in like manner as if it had been income from rents.

(3) An amount equal to the income (if any) of the local authority arising from an investment or other use of borrowed moneys in respect of which the authority are required under the following provisions of this Schedule to debit loan charges to the account shall be carried to the credit of the account in like manner as if it had been income from rents.

(4) Where in any financial year a deficit is shown in the account, the local authority shall carry to the credit of the account, in respect of that financial year, an amount equal to the amount of the deficit.

(5) In any financial year the local authority may carry to the credit of the account, in addition to the amounts required by the foregoing provisions of this Schedule, such further amounts, if any, as they may think fit.

2. In each financial year a local authority shall debit to the housing revenue account amounts equal to— **SCH. 7**

- (a) the loan charges which the local authority are liable to pay for that year in respect of moneys borrowed by a local authority for the purpose of—
- (i) the provision by them after 12th February 1919 of housing accommodation under Part III of the Housing 1925 c. 15. (Scotland) Act 1925, or under any enactment relating to the provision of housing accommodation for the working classes repealed by that Act, or under Part V of the Housing (Scotland) Act 1950, or under Part VII 1950 c. 34. of the principal Act ; or
 - (ii) the execution of works in respect of which the Secretary of State has undertaken to make an Exchequer contribution under section 35 of the Housing (Scotland) 1935 c. 41. Act 1935 ; or
 - (iii) the provision or improvement by them of dwellings in accordance with improvement proposals approved by the Secretary of State under section 2 of the Housing 1949 c. 61. (Scotland) Act 1949 or under section 105 of the said Act of 1950 or under section 13 of this Act ; or
 - (iv) the purchase of any houses approved by the Secretary of State for the purposes of section 4 of the Housing (Repairs and Rents) (Scotland) Act 1954 or 1954 c. 50. section 19 of this Act, or the carrying out of works on such houses ;
- (b) the taxes, feu duties, rents and other charges which the local authority are liable to pay for that year in respect of houses and other property to which the account relates ;
- (c) the expenditure incurred by the local authority for that year in respect of the supervision and management of houses and other property to which the account relates ;
- (d) the arrears of rent which have been written off in that year as irrecoverable ;
- (e) any amounts required to be credited by the local authority for that year to a housing repairs account kept in accordance with section 61 of this Act ;
- (f) if the local authority keep a housing equalisation account in accordance with section 62 of this Act, any amounts required to be credited by the authority for that year to that account ;
- (g) any payments made by the local authority to another local authority or a development corporation in pursuance of any overspill agreement within the meaning of Part II of the Housing and Town Development (Scotland) Act 1957, being 1957 c. 38. payments towards expenditure which, if it had been incurred by the first-mentioned authority, would have been debited by them to their housing revenue account in pursuance of this paragraph.

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3. Where it appears to the Secretary of State that amounts in respect of any incomings or outgoings other than those mentioned in the foregoing provisions of this Schedule ought properly to be credited or debited to a housing revenue account, or that amounts in respect of any of the incomings and outgoings mentioned in the foregoing provisions of this Schedule which ought properly to have been credited or debited to the account have not been so credited or debited, or that any amounts have been improperly credited or debited to the account, he may, after consultation with the local authority, give directions for the appropriate credits or debits to be made or for the rectification of the account, as the case may require :

Provided that, in the case of incomings and outgoings other than those mentioned in the foregoing provisions of this Schedule, directions under this paragraph may (instead of directing particular amounts to be credited or debited) direct generally that credits or debits shall be made in respect of incomings and outgoings of a kind specified in the direction.

4. Any surplus shown in a housing revenue account at the end of a financial year may be applied by the local authority, in whole or in part, in making good to the general rate fund any amounts credited to the account under paragraph 1(4) or 1(5) of this Schedule in any of the nine last preceding financial years, and, so far as not so applied, shall be carried forward in the account to the next financial year.

5. References in this Schedule to houses and other property to which the housing revenue account of a local authority relates shall be construed as references to houses, buildings, land and dwellings in respect of which the authority is required by section 60 of this Act to keep the account.

SCHEDULE 8

ENACTMENTS REFERRED TO IN SECTIONS 55, 57 and 62, and in
SCHEDULES 2 and 7

The Housing, Town Planning, &c. (Scotland) Act 1919.

(9 & 10 Geo. 5. c. 60)

Section 5.

The Housing, &c. Act 1923.

(13 & 14 Geo. 5. c. 24)

Section 1(1)(b) and (3).

The Housing (Scotland) Act 1930.

(20 & 21 Geo. 5. c. 40)

Section 23.

The Housing (Rural Authorities) Act 1931.

(21 & 22 Geo. 5. c. 39)

Section 1.

The Housing (Scotland) Act 1935.

(25 & 26 Geo. 5. c. 41)

Part III.

SCH. 8

The Housing (Agricultural Population) (Scotland) Act 1938.

(1 & 2 Geo. 6. c. 38)

Section 1.

The Housing (Financial Provisions) (Scotland) Act 1938.

(2 & 3 Geo. 6. c. 3)

Section 1.

The Housing (Scotland) Act 1950.

(14 Geo. 6. c. 34)

Sections 84 to 86, 88, 91 and 105.

The Housing and Town Development (Scotland) Act 1957.

(5 & 6 Eliz. 2. c. 38)

Sections 2 and 3.

The Housing (Scotland) Act 1962.

(10 & 11 Eliz. 2. c. 28)

Part I.

This Act.

Sections 2, 4 to 10, 13, 19 and 58(4).

SCHEDULE 9

Sections 68, 69.

CONSEQUENTIAL AMENDMENT OF HOUSING (SCOTLAND) ACT 1966 1966 c. 49.

1. In section 74(4), for the words "section 19 of the House Purchase and Housing Act 1959 or section 111 of the Housing (Scotland) Act 1950" there shall be substituted the words "section 40 or section 27 of the Housing (Financial Provisions) (Scotland) Act 1968".

2. In section 74(8), for the words "section 75(3)(c) of the Housing (Scotland) Act 1950" there shall be substituted the words "section 49(3)(c) of the Housing (Financial Provisions) (Scotland) Act 1968".

3. In section 79(2), for the words "section 19 of the House Purchase and Housing Act 1959" there shall be substituted the words "section 40 of the Housing (Financial Provisions) (Scotland) Act 1968".

4. In section 86(7), for the words "section 19 of the House Purchase and Housing Act 1959" there shall be substituted the words "section 39 of the Housing (Financial Provisions) (Scotland) Act 1968", and the words "transitional and other supplemental provisions, including" shall be omitted.

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5. In section 145(6), for the words “Part I of Schedule 6 to the Housing (Scotland) Act 1950” there shall be substituted the words “Schedule 8 to the Housing (Financial Provisions) (Scotland) Act 1968”.

6. In section 146, for the words “section 137 of the Housing (Scotland) Act 1950” there shall be substituted the words “section 60 of the Housing (Financial Provisions) (Scotland) Act 1968”.

7. In section 151(1), for the words “section 137 of the Housing (Scotland) Act 1950” there shall be substituted the words “section 60 of the Housing (Financial Provisions) (Scotland) Act 1968”.

8. In section 175(1) for the words “section 23(1) of the Housing and Town Development (Scotland) Act 1957” there shall be substituted the words “section 1(3) of the Housing (Financial Provisions) (Scotland) Act 1968”, and for the words “section 18(1)(b) of the Housing (Scotland) Act 1962” there shall be substituted the words “section 25(1)(b) of the Housing (Financial Provisions) (Scotland) Act 1968”.

9. In section 208(1), the definition of “Exchequer contribution” shall be omitted.

10. In section 210(2), for the words “the references in sections 2, 177(1), 178(b), 183(1)(a), 193(1), 196(1) and 197(1) of this Act” there shall be substituted the following words—

“the references in sections 1, 2, 177(1), 178(b), 183(1)(a), 191, 192(4) and (6), 193(1), 196(1), 197(1), 200(1), 201, 202, 205 and 206 of this Act”;

and for the words “section 165(1) of this Act” there shall be substituted the words “sections 165(1) and 200(2) of this Act”.

11. In Schedule 9, the amendment of sections 137 and 138 of the Housing (Scotland) Act 1950 and the amendment of section 29(2) of the House Purchase and Housing Act 1959 shall be omitted.

SCHEDULE 10

Section 70.

ENACTMENTS REPEALED

| Session and Chapter | Short Title | Extent of Repeal |
|---|--|---|
| 14 Geo. 6. c. 34. | The Housing (Scotland) Act 1950. | Section 1. Section 75. Sections 77 and 78. Sections 89 and 90. Section 92. Section 109. Sections 111 to 119. Section 122. In section 123, the words from “ or arrangements ” to “ Part of this Act ”. In section 126, subsections (1), (3) and (4). In section 127, subsections (3) and (4). In section 128, subsections (2) and (3). Section 130. Section 132. Sections 137 to 142. Sections 167 and 168. Sections 174 to 176. Sections 182 and 183. Schedule 6. Schedule 8. Schedule 10. |
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 63. | The Housing (Scotland) Act 1952. | In section 1, subsection (4). Sections 3 and 4. Sections 6 and 7. In section 9, subsections (1) and (2), in subsection (3) the words “ and subsection (6) of section one hundred and eleven of the principal Act ” and the words “ and, in the case of the said sub- section (6), section three of this Act ”, subsections (4) and (6). |
| 2 & 3 Eliz. 2. c. 50. | The Housing (Repairs and Rents) (Scotland) Act 1954. | Section 4. Sections 9 to 11. In section 43, the words “ or section one hundred and six- teen or section one hundred and seventy of the Housing (Scotland) Act 1950 ”. |

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| Session and Chapter | Short Title | Extent of Repeal |
|----------------------------|---|---|
| 3 & 4 Eliz. 2. c. 21. | The Crofters (Scotland) Act 1955. | In section 22(8), the words "and subsection (6) of section one hundred and eleven" and the words "and subsection (5) of section three of the Housing (Scotland) Act 1952". |
| 5 & 6 Eliz. 2. c. 25. | The Rent Act 1957. | In section 10(2), paragraph (d). |
| 5 & 6 Eliz. 2. c. 38. | The Housing and Town Development (Scotland) Act 1957. | Section 4. In section 5, subsection (1). Section 21. In section 27(1), the words "or in Part I of the Housing (Repairs and Rents) (Scotland) Act 1954". In Schedule 1, paragraphs 5, 6, 8 and 10 to 12. |
| 7 & 8 Eliz. 2. c. 33. | The House Purchase and Housing Act 1959. | In section 3, in subsection (1) the words "and paragraph (b) of subsection (3) of section seventy-five of the Act of 1950", and in subsection (2) the words "and of the said section seventy-five" and the words "which or of". Sections 19 and 20. Sections 22 to 24. In section 25, the words "and section one hundred and ten of the Act of 1950 (which makes similar provision as respects Scotland)". In section 29, in subsection (1) in the definition of "improvement grant" the words "or under section one hundred and eleven of the Act of 1950", and in subsection (2) the words "and, in Scotland, section 5 of the Housing (Scotland) Act 1966". In section 31(1), the words from "and the Act of 1950" to the end. In section 32(4), the words "and Part II of the First Schedule thereto". In Schedule 1, Part II. |
| 10 & 11 Eliz. 2. c. 28. | The Housing (Scotland) Act 1962. | Section 8. Sections 11 to 13. Section 15. In section 16, the words "and section one hundred and eighteen of the Act of 1950 (which relates to the increase of rent under Part VII of that Act in certain cases)". |

| Session and Chapter | Short Title | Extent of Repeal |
|---|--|--|
| 10 & 11 Eliz. 2. c. 28.— <i>contd.</i> | The Housing (Scotland) Act 1962— <i>contd.</i> | <p>Sections 17 and 18.</p> <p>In section 19, subsection (1).</p> <p>In section 32(1), paragraph (b) and the words “ or, as the case may be, by whom it may be occupied ”.</p> <p>In Schedule 4, paragraph 4, in paragraph 6 the words from “ and Part I of the Sixth Schedule ” to the end, paragraphs 32 to 34 and paragraph 36.</p> |
| 1964 c. 56. | The Housing Act 1964. | <p>In section 11, subsection (2).</p> <p>Sections 45 to 49.</p> <p>Section 55.</p> <p>Sections 61 and 62.</p> <p>In section 63, subsection (2).</p> <p>In section 92, subsection (7), and, in subsection (10), paragraph (h).</p> <p>Section 96.</p> <p>In section 97, subsection (2).</p> <p>Section 99.</p> <p>Section 101(2).</p> <p>Section 103.</p> |
| 1965 c. 40. | The Housing (Amendment) (Scotland) Act 1965. | The whole Act. |
| 1966 c. 49. | The Housing (Scotland) Act 1966. | <p>In section 86(7), the words “ transitional and other supplementary provisions, including ”.</p> <p>In section 208(1), the definition of “ Exchequer contribution ”.</p> <p>In Schedule 9, the amendment of sections 137 and 138 of the Housing (Scotland) Act 1950 and the amendment of section 29(2) of the House Purchase and Housing Act 1959.</p> |
| 1967 c. 20. | The Housing (Financial Provisions, &c.) (Scotland) Act 1967. | <p>In section 1, subsections (1) to (3).</p> <p>Sections 2 to 10.</p> <p>In section 11, in subsection (1) the words “ The provisions of this section shall have effect with respect to annual contributions, and ”, and subsections (2) to (6).</p> <p>Sections 12 to 15.</p> <p>In section 16, subsection (2).</p> |

SCH. 10

| Session and Chapter | Short Title | Extent of Repeal |
|------------------------------|--|--|
| 1967 c. 20— <i>contd.</i> | The Housing (Financial Provisions, &c.) (Scotland) Act 1967— <i>contd.</i> | <p>In section 17, in subsection (1) the definitions of “ approved house ”, “ authorised arrangements made with a local authority ” and “ relevant financial year ”, and subsection (2).</p> <p>In section 21(1), the words from “ so however ” to the end.</p> <p>Schedules 1 and 2.</p> <p>Schedule 4.</p> <p>In Schedule 5, paragraphs 5, 7 to 9, 12 and 13.</p> |



Industrial Expansion Act 1968

1968 CHAPTER 32

An Act to authorise the provision of financial support, pursuant to schemes laid before Parliament, for industrial projects calculated to improve efficiency, create, expand or sustain productive capacity or promote or support technological improvements, and in that connection to extend the powers of the National Research Development Corporation and the Industrial Reorganisation Corporation; to make provision or further provision for financial support for certain other industrial projects and undertakings, and to amend section 7 of the Development of Inventions Act 1967; to modify section 1 of the Civil Aviation Act 1949 in relation to the purchase of the undertaking of Beagle Aircraft Limited and other transactions; to make further provision with respect to the supply powers of Ministers under the Ministry of Supply Act 1939 and to the exercise of functions by the Board of Trade; and for purposes connected with the matters aforesaid.

[30th May 1968]

BE IT ENACTED by the Queen'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:—

Industrial investment schemes

1.—(1) There may be defrayed out of moneys provided by Parliament any expenditure of a competent authority pursuant to a scheme (in this Act referred to as “an industrial investment scheme”) made under the following provisions of this Act. Provision of money for industrial investment schemes.

(2) An industrial investment scheme may be made by a competent authority with the approval of the Treasury: but no

such scheme shall be made unless a draft of the scheme has been laid before Parliament and approved by resolution of the House of Commons.

(3) For the purposes of this Act the competent authorities are the Minister of Technology, a Secretary of State, the Board of Trade, the Minister of Public Building and Works, the Minister of Transport, the Minister of Power, the Minister of Agriculture, Fisheries and Food and the Minister of Health.

Contents of schemes.

2.—(1) An industrial investment scheme may be made by a competent authority for the purposes of any project which, in the opinion of that authority, is likely to benefit the economy of the United Kingdom, or any part or area of the United Kingdom, as being calculated—

- (a) to improve the efficiency and profitability of an industry or section of an industry ;
- (b) to create, expand or sustain productive capacity in an industry or section of an industry ; or
- (c) to promote or support technological improvements in the processes or products of an industry or section of an industry,

but would not be undertaken without such financial support as is authorised by this section.

(2) An industrial investment scheme may authorise a competent authority to provide financial support in any form for the purposes of a project to which the scheme relates, and in particular (but without prejudice to the generality of the foregoing provision) may authorise that authority for those purposes—

- (a) to make loans or grants to such persons or bodies as may be determined by or under the scheme ;
- (b) to guarantee the repayment by such persons or bodies of money borrowed by them or the payment of interest on such money ;
- (c) to underwrite the whole or part of any loss which may be incurred by such persons or bodies in connection with the production of goods or the provision of services ;
- (d) to purchase goods from such persons or bodies or use or make arrangements for the use of services provided by them ;
- (e) to subscribe for or purchase by agreement shares in any company specified or described in the scheme or to be formed pursuant thereto ;
- (f) to purchase by agreement the undertaking or any part of the undertaking of any such company.

(3) Financial support shall not be provided under an industrial investment scheme to any of the bodies specified in Schedule 1 to this Act nor, until the dissolution of the Shipbuilding Industry Board, to any person for the purpose of a shipbuilding undertaking within the meaning of the Shipbuilding Industry Act 1967, 1967 c. 40. and no such scheme shall authorise the subscription for or purchase of shares in any company (other than a company to be formed pursuant to the scheme) without the consent of the company.

(4) In this section "shares" include stock.

3.—(1) The power of a competent authority to make industrial investment schemes shall include power to make, after such inquiry as the authority considers appropriate as to the conditions prevailing in any industry or section of an industry, a general scheme for the purposes of that industry or section authorising the provision, during such period as may be prescribed by the scheme, of financial support of such kinds and up to such amounts as may be specified in the scheme for industrial projects of any class so specified which may be undertaken within that industry or section. General schemes and industry boards.

(2) Any such general scheme may constitute for the industry or section concerned a board (in this Act referred to as an industry board) having the following functions, namely—

- (a) to make recommendations to the competent authority, in such cases as the board think proper, for the provision of financial support in accordance with the scheme ;
- (b) to undertake at the request and on behalf of the competent authority any administrative functions of that authority under the scheme or any corresponding functions of that authority under any other enactment in relation to the relevant industry or section.

(3) A scheme constituting an industry board may direct that Schedule 2 to this Act shall apply to the board, and subject thereto may regulate the composition of the board and make provision for purposes incidental and supplementary to its constitution and functions.

(4) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified under that Act), both in its application to the House of Commons of the Parliament of the United Kingdom and in its application to the Senate and House of Commons of Northern Ireland, there shall be inserted at the appropriate point in alphabetical order the words "An industry board constituted under the Industrial Expansion Act 1968". 1957 c. 20.

(5) The expenses of an industry board, to such amount as may be sanctioned by the Treasury, shall be defrayed by the competent authority out of moneys provided by Parliament.

Limits on expenditure under schemes.

4.—(1) Every industrial investment scheme shall specify the aggregate amount of the expenditure which may be incurred by a competent authority thereunder, other than expenditure in fulfilling any guarantee of the payment of interest.

(2) Subject to subsection (3) below, the aggregate of the amounts so specified by industrial investment schemes for the time being in force and of expenditure of competent authorities under industrial investment schemes revoked shall not exceed £100 million.

(3) The Minister of Technology with the approval of the Treasury may by order of which a draft has been laid before and approved by resolution of the House of Commons, increase the limit of £100 million mentioned in subsection (2) above to such amount not exceeding £150 million as may be specified in the order.

Advisory and administrative services.

5.—(1) The Minister of Technology may appoint an Advisory Committee for the purpose of advising him and other competent authorities with respect to any such exercise of their functions under the foregoing provisions of this Act as they may refer to that Committee.

(2) The Minister may pay to or in respect of the members of an Advisory Committee appointed under this section such remuneration or allowances as he may with the consent of the Treasury determine.

(3) An Advisory Committee appointed under this section shall consist of a chairman and not less than four nor more than eight other members.

(4) The members of any Advisory Committee appointed under this section shall include such members of the National Research Development Corporation and of the Industrial Reorganisation Corporation as the Minister may, after consultation with those Corporations respectively, from time to time determine; and the other members of that Committee shall be appointed from among persons who appear to the Minister to have wide experience of, and to have shown capacity in, industry, technology, commercial or financial matters, administration or the organisation of workers.

(5) Each of the said Corporations shall have power—

- (a) to provide staff or facilities for the use of an Advisory Committee appointed under this section;
- (b) to undertake at the request and on behalf of any such Committee any investigation required for the purposes of the Committee;

- (c) to undertake at the request and on behalf of a competent authority any negotiations with a view to the making of an industrial investment scheme or any administrative functions of that authority under such a scheme.

(6) The provisions of the Development of Inventions Act 1967 1967 c. 32. and of the Industrial Reorganisation Corporation Act 1966 1966 c. 50. relating to directions or approval by Ministers, finance, accounts and audit and reports and information shall not apply to the National Research Development Corporation or the Industrial Reorganisation Corporation in respect of functions or expenditure under this section.

(7) There shall be defrayed out of moneys provided by Parliament—

- (a) any expenditure of the Minister of Technology under subsection (2) of this section ;
- (b) any expenses of an Advisory Committee appointed under this section, to such amount as may be sanctioned by the Treasury ;
- (c) any expenses under this section of the National Research Development Corporation or the Industrial Reorganisation Corporation.

6. An industry board constituted by a scheme shall be dissolved on such date as may be prescribed by the scheme ; and the competent authority may, by order subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as appears to that authority to be necessary or expedient in consequence of or in connection with the dissolution of any such board. Dissolution of industry boards.

7.—(1) Every competent authority shall, for each financial year, prepare a report on the exercise in that year of the functions of that authority under the foregoing provisions of this Act, and shall lay the report before Parliament. Reports on schemes.

(2) Every industry board constituted by a scheme shall, within a period of four months after the end of each financial year and as soon as possible within that period, make a general report to the competent authority on the exercise by that board of their functions during that year ; and a copy of each report made to a competent authority under this section shall be laid before Parliament by that authority together with such comments as that authority may think fit to make.

Other provisions for financial support

8.—(1) There may be defrayed out of moneys provided by Parliament any expenditure incurred by the Minister of Technology under arrangements for providing financial support for Finance for Concorde project.

the production in the United Kingdom of the supersonic aircraft known as the Concorde, being arrangements made with the approval of the Treasury.

(2) Any such arrangements may provide for financial support to be provided by the Minister by making loans, giving guarantees in respect of money borrowed, or underwriting in whole or in part any losses which may be incurred in connection with the production of the said aircraft, or by any other method which the Minister considers appropriate.

(3) Loans made by the Minister under such arrangements as aforesaid shall be repayable, and guarantees given by him thereunder in respect of money borrowed shall expire, not later than 30th June 1979; and, subject to subsection (4) below, the aggregate of—

- (a) the principal outstanding at any time before that date in respect of loans so made;
- (b) the amount for which, at any such time, the Minister is liable under guarantees of the repayment of principal given by him under such arrangements; and
- (c) any sums which, at any such time, have been paid by the Minister pursuant to such guarantees of the repayment of principal and have not been repaid to him,

shall not exceed £100 million.

(4) The Minister of Technology with the approval of the Treasury may by order of which a draft has been laid before and approved by resolution of the House of Commons, increase the limit of £100 million mentioned in subsection (3) above to such amount not exceeding £125 million as may be specified in the order.

Finance for
the Q.E. 2.

9.—(1) There may be defrayed out of moneys provided by Parliament any expenditure of the Board of Trade, not exceeding £24 million, in making loans to the Cunard Steam-Ship Company Limited and Cunard Line Limited for purposes of or connected with the construction or introduction into service of the liner Queen Elizabeth 2.

(2) Any such loan to the Cunard Steam-Ship Company Limited shall carry interest at the rate of 4½ per cent. per annum; and every such loan to Cunard Line Limited shall carry interest—

- (a) until the expiration of three years from the date on which the said liner is delivered to that company, at the said rate;
- (b) thereafter, at such rate as the Board of Trade may with the approval of the Treasury determine;

and subject to the foregoing all such loans shall be made upon such terms and conditions as to repayments and otherwise as are agreed upon between the Board and the company concerned.

(3) The limit of £75 million referred to in subsection (6) of section 1 of the Shipbuilding Credit Act 1964 is hereby reduced by £17.6 million (being the amount which was proposed to be lent under that Act for the purposes of that liner). 1964 c. 7.

10. The following section shall be substituted for section 3 of the Shipbuilding Industry Act 1967— Amendment of Shipbuilding Industry Act 1967.

Grants in connection with reorganisation of resources.

3.—(1) If it appears to the Board that a person carrying on a shipbuilding undertaking or a main engine manufacturing undertaking is putting, or has put, into effect a reorganisation of the resources used by him for the purpose of carrying on that undertaking and that the reorganisation is likely to lead, or has led, to increased efficiency in the use of those resources for that purpose, the Board may, subject to the provisions of this section, make grants to that person for the purposes of that undertaking generally or for such purposes of that undertaking as the Board thinks fit. 1967 c. 40.

(2) Any grant under this section shall require the approval of the Minister.

(3) Grants made under this section shall not together exceed £20 million.

11. In subsection (2) of section 7 of the Development of Inventions Act 1967 (limit on loans by the Minister of Technology to the National Research Development Corporation) for the words “£25 million” there shall be substituted the words “£50 million”. Exchequer advances to N.R.D.C. 1967 c. 32.

Statutory powers of Ministers

12. The proviso to subsection (1) of section 1 of the Civil Aviation Act 1949 (which excludes from the functions of the Minister under that section the production of civil aircraft by the Minister) shall not apply to anything to be done— Modification of s. 1 of Civil Aviation Act 1949. 1949 c. 67.

(a) by or on behalf of the Minister of Technology pursuant to or in consequence of an agreement for the purchase by him of the undertaking of Beagle Aircraft Limited made on 12th December 1966, or any variation of that agreement whether made before or after the passing of this Act;

(b) by or on behalf of that Minister or the Board of Trade under any of the foregoing provisions of this Act.

13. Subsections (1) to (3) of section 6 of the Supplies and Services (Transitional Powers) Act 1945 (temporary provisions extending the statutory powers of Minister of Supply) shall cease to have effect; and the Ministry of Supply Act 1939 shall have effect subject to the amendments specified in Schedule 3 to this Act, being amendments re-enacting those provisions with minor modifications and additions but without limit of time. Supply powers of Ministers. 1945 c. 10 (9 & 10 Geo. 6.) 1939 c. 38.

Functions
of Board of
Trade.

14.—(1) Anything authorised or required by or under this Act or any other enactment, whether passed before or after this Act, to be done by, to or before the Board of Trade may be done by, to or before the President of the Board or any person acting with his authority.

(2) In this section “enactment” includes an enactment of the Parliament of Northern Ireland.

Supplemental

Payments into
Exchequer.

15. There shall be paid into the Exchequer any sums received by the Minister of Technology, the Board of Trade or any other competent authority—

(a) by way of repayment of principal or payment of interest on loans made under this Act or any scheme thereunder ;

(b) in respect of fees or other charges in connection with the provision of financial support thereunder ;

and any other sums so received by virtue of this Act or any such scheme.

Statutory
instruments.

16.—(1) Any power conferred by this Act to make a scheme or order shall be exercisable by statutory instrument.

(2) A scheme or order under any provision of this Act may be revoked or varied by a subsequent scheme or order under that provision.

Powers of
Parliament of
Northern
Ireland.
1920 c. 67.

17. For the purposes of section 6 of the Government of Ireland Act 1920, this Act shall, so far as it relates to matters within the power of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

Short title
and repeals.

18.—(1) This Act may be cited as the Industrial Expansion Act 1968.

(2) The enactments and instruments described in Schedule 4 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

SCHEDULES

SCHEDULE 1

Section 2.

BODIES NOT ELIGIBLE FOR FINANCIAL SUPPORT
UNDER INDUSTRIAL INVESTMENT SCHEMES

The British Railways Board.

The British Steel Corporation.

A publicly-owned company within the meaning of the Iron and Steel Act 1967.

1967 c. 67.

The London Transport Board.

The British Transport Docks Board.

The British Waterways Board.

The British Overseas Airways Corporation.

The British European Airways Corporation.

The British Airports Authority.

The National Coal Board.

An Area Electricity Board.

The North of Scotland Hydro-Electric Board.

The South of Scotland Electricity Board.

The Central Electricity Generating Board.

The Electricity Council.

The Electricity Board for Northern Ireland.

An Area Gas Board.

The Gas Council.

SCHEDULE 2

Section 3.

INDUSTRY BOARDS

Incorporation and status

1. Every industry board (in this Schedule referred to as the Board) shall be a body corporate having perpetual succession and a common seal.

2. Premises occupied by the Board shall be deemed, for the purposes of any rate on property, to be property occupied by or on behalf of the Crown for public purposes; but, save as aforesaid, the Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown or as exempt from any tax, duty, levy or other charge whatsoever, and its property shall not be regarded as the property of, or property held on behalf of, the Crown.

Membership

3. The Board shall consist of a chairman appointed by the competent authority and such number of other members so appointed as may be prescribed by the scheme constituting the Board.

4. A member of the Board shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold his office, be eligible for reappointment.

2 B*

SCH. 2

5. Any member of the Board may at any time by notice in writing to the competent authority resign his office.

6. If the competent authority is satisfied that a member of the Board—

- (a) has been absent from meetings of the Board for a period longer than three consecutive months without the permission of the Board ; or
- (b) has become bankrupt or made an arrangement with his creditors ; or
- (c) is incapacitated by physical or mental illness ; or
- (d) is otherwise unable or unfit to discharge the functions of a member,

the competent authority may declare his office as a member of the Board to be vacant and shall notify the fact in such manner as the authority thinks fit ; and thereupon the office shall become vacant.

7. In the application of this Schedule to Scotland, for the references in the last foregoing paragraph to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to sequestration of a member's estate having been awarded and to a member's having made a trust deed for behoof of his creditors or a composition contract.

8. The competent authority may if it thinks fit, after consultation with the chairman, appoint one of the other members of the Board to be deputy chairman.

Remuneration

9. The Board shall pay to its members such salaries or fees and such allowances as the competent authority with the approval of the Treasury may determine ; and where a member of the Board is in the employ of any other person the Board may make to that other person in consideration of the services to the Board of that member such payments as the competent authority with the like approval may determine.

10. The Board shall, as regards any members in whose case the competent authority may so determine with the approval of the Treasury, make provision for, or pay to or in respect of them, such pensions or gratuities as may be so determined.

11. If a person ceases to be a member of the Board and it appears to the competent authority that there are special circumstances which make it right that that person should receive compensation, the competent authority with the approval of the Treasury may require the Board to pay to him a sum of such amount as the competent authority with the like approval may determine.

12. The competent authority shall, as soon as possible after the first appointment of any person as a member of the Board, lay before each House of Parliament a statement of the sums that are or will be payable to or in respect of that member under paragraph 9 of this Schedule ; and if any subsequent determination by the competent authority under that paragraph involves a departure from the terms

of that statement, or if the competent authority makes a determination under paragraph 10 or 11 of this Schedule, the competent authority shall, as soon as possible after the determination, lay a statement before each House of Parliament of the sums that are or will be payable in consequence of that determination.

SCH. 2

Staff

13. The Board shall pay to the persons employed by it such remuneration as the competent authority may with the approval of the Treasury determine.

14. The Board shall, in the case of such persons employed by it as the competent authority with the approval of the Treasury may determine, pay to or in respect of them such pensions or gratuities, or make such payment towards the provision of pensions or gratuities, as may be so determined.

Proceedings

15. The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of any member.

16. The quorum of the Board and the arrangements relating to meetings of the Board shall be such as the Board may determine.

17. A member of the Board who is in any way directly or indirectly interested in a transaction or project of the Board shall disclose the nature of his interest at a meeting of the Board ; and the disclosure shall be recorded in the minutes of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that transaction or project.

18. The fixing of the seal of the Board shall be authenticated by the signature of the secretary of the Board or of some other person authorised either generally or specially by the Board to act for that purpose.

19. Any document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be a document so executed.

Section 13.

SCHEDULE 3

1939 c. 38.

AMENDMENTS OF MINISTRY OF SUPPLY ACT 1939

1. The following shall be substituted for subsection (1) of section 2 (general powers of Minister):—

(1) The Minister shall have power to acquire, produce or process articles required for the public service or articles to be exchanged for such articles; to sell, exchange or otherwise dispose of any such articles or any government surplus materials; to store and transport any such articles and materials; 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 foregoing powers.

2. At the end of section 2 there shall be added the following subsection:—

(4) Without prejudice to his powers of inspection under subsection (1) of this section, the Minister may, at the request of the parties concerned, carry out or supervise the carrying out of any inspection for the purposes of or in connection with the production of any articles where the inspection can conveniently be carried out or supervised by him in connection with the exercise of his functions.

3. The following shall be substituted for section 19 (interpretation):—

19. In this Act the following expressions have the meanings hereby assigned to them that is to say—

“articles” includes substances;

“articles required for the public service” means—

(i) articles required for the purpose of the discharge of its functions by any government department (including a department of the Government of Northern Ireland), by the United Kingdom Atomic Energy Authority or any Research Council within the meaning of the Science and Technology Act 1965;

(ii) articles required for the defence of any part of the Commonwealth, including any territory under Her Majesty's protection or in which She has jurisdiction, or for the maintenance or restoration of peace and security in any part of the world or for any measures arising out of a breach or apprehended breach of peace in any part of the world;

(iii) articles required by any international organisation of which the United Kingdom is a member or (where the relevant international agreement so provides) by any other member of such an organisation;

1965 c. 4.

- (iv) articles which in the opinion of the Minister would be essential for the needs of the community in the event of war ;
- (v) articles for supply to a person carrying on an undertaking which includes the production of articles of that or any other description where that person requests the Minister to supply those articles and the Minister is satisfied that the supply will serve the interests of the community ;
- (vi) anything which, in the opinion of the Minister, is or is likely to be necessary for or in connection with the production of any such articles as aforesaid,

SCH. 3

and "works required for the public service" shall be construed accordingly ;

"government surplus materials" means surplus articles of any government department (including a department of the government of Northern Ireland), and surplus articles of the government of any country outside the United Kingdom to be disposed of by Her Majesty's Government in the United Kingdom in pursuance of an agreement between those governments ;

"the Minister" means the Minister of Technology or other Minister of the Crown within the meaning of the Ministers of the Crown (Transfer of Functions) Act 1946 in whom functions under this Act are vested by any Order in Council under that Act.

SCHEDULE 4

REPEALS

Acts

| Chapter | Short Title | Extent of Repeal |
|-------------------------------|--|--|
| 6 & 7 Geo. 5. c. 58. | The Registration of Business Names Act 1916. | Section 20. |
| 11 & 12 Geo. 5. c. 16. | The Importation of Plumage (Prohibition) Act 1921. | Section 2(6). |
| 16 & 17 Geo. 5. c. 53. | The Merchandise Marks Act 1926. | Section 11. |
| 1 & 2 Geo. 6. c. 22. | The Trade Marks Act 1938. | Section 67. |
| 1 & 2 Geo. 6. c. 51. | The Essential Commodities Reserves Act 1938. | In section 5(3) the words from "and" onwards. |
| 2 & 3 Geo. 6. c. 38. | The Ministry of Supply Act 1939. | Section 3. |
| 2 & 3 Geo. 6. c. 69. | The Import, Export and Customs Powers (Defence) Act 1939. | Section 8(3). |
| 2 & 3 Geo. 6. c. 89. | The Trading with the Enemy Act 1939. | Section 11(2). |
| 9 & 10 Geo. 6. c. 10. | The Supplies and Services (Transitional Powers) Act 1945. | Section 6(1) to (3). |
| 9 & 10 Geo. 6. c. 58. | The Borrowing (Control and Guarantees) Act 1946. | Section 2, except as respects any loan for which a guarantee under that section is in force at the commencement of this Act. |
| 10 & 11 Geo. 6. c. 26. | The Cotton (Centralised Buying) Act 1947. | Section 26. |
| 10 & 11 Geo. 6. c. 39. | The Statistics of Trade Act 1947. | Section 16. |
| 10 & 11 Geo. 6. c. 40. | The Industrial Organisation and Development Act 1947. | Section 13. |
| 11 & 12 Geo. 6. c. 31. | The Cotton Spinning (Re-equipment Subsidy) Act 1948. | Section 7(2). |
| 11 & 12 Geo. 6. c. 66. | The Monopolies and Restrictive Practices (Inquiries and Control) Act 1948. | Section 19(2). |
| 12, 13 & 14 Geo. 6. c. 20. | The Cinematograph Film Production (Special Loans) Act 1949. | Section 10. |
| 12, 13 & 14 Geo. 6. c. 85. | The Distribution of German Enemy Property Act 1949. | Section 6. |
| 12, 13 & 14 Geo. 6. c. 87. | The Patents Act 1949. | Section 96(1). |
| 12, 13 & 14 Geo. 6. c. 88. | The Registered Designs Act 1949. | Section 38(1). |
| 2 & 3 Eliz. 2. c. 24. | The Cotton Act 1954. | Section 5(3). |
| 2 & 3 Eliz. 2. c. 32. | The Atomic Energy Authority Act 1954. | In Schedule 3, the paragraph amending section 19 of the Ministry of Supply Act 1939. |

| Chapter | Short Title | Extent of Repeal |
|----------------------------|--|---|
| 2 & 3 Eliz. 2. c. 56. | The Landlord and Tenant Act 1954. | Section 62 so far as un-repealed. |
| 4 & 5 Eliz. 2. c. 68. | The Restrictive Trade Practices Act 1956. | Section 34. |
| 4 & 5 Eliz. 2. c. 74. | The Copyright Act 1956. | Section 47(5). |
| 5 & 6 Eliz. 2. c. 18. | The Customs Duties (Dumping and Subsidies) Act 1957. | Section 10. |
| 5 & 6 Eliz. 2. c. 21. | The Cinematograph Films Act 1957. | Section 16. |
| 5 & 6 Eliz. 2. c. 52. | The Geneva Conventions Act 1957. | Section 6(8). |
| 6 & 7 Eliz. 2. c. 6. | The Import Duties Act 1958. | Section 14. |
| 6 & 7 Eliz. 2. c. 45. | The Prevention of Fraud (Investments) Act 1958. | Section 24. |
| 6 & 7 Eliz. 2. c. 47. | The Agricultural Marketing Act 1958. | Section 50. |
| 7 & 8 Eliz. 2. c. 19. | The Emergency Laws (Repeal) Act 1959. | Section 3, except so far as it amends section 6(4) of the Supplies and Services (Transitional Powers) Act 1945. |
| 7 & 8 Eliz. 2. c. 48. | The Cotton Industry Act 1959. | Section 4(2). |
| 8 & 9 Eliz. 2. c. 18. | The Local Employment Act 1960. | Section 24. |
| 8 & 9 Eliz. 2. c. 19. | The European Free Trade Association Act 1960. | Section 8. |
| 8 & 9 Eliz. 2. c. 57. | The Films Act 1960. | Section 49. |
| 10 & 11 Eliz. 2. c. 38. | The Town and Country Planning Act 1962. | Section 218. |
| 1963 c. 15. | The Fort William Pulp and Paper Mills Act 1963. | Section 1(6). |
| 1963 c. 16. | The Protection of Depositors Act 1963. | Section 24(1). |
| 1963 c. 31. | The Weights and Measures Act 1963. | Section 56. |
| 1964 c. 58. | The Resale Prices Act 1964. | In section 8(4) the words from "and in" to "to that Act". |
| 1964 c. 60. | The Emergency Laws (Re-enactments and Repeals) Act 1964. | Section 17(1) and section 18. |
| 1964 c. 61. | The Animals (Restriction of Importation) Act 1964. | Section 4. |
| 1965 c. 4. | The Science and Technology Act 1965. | In Schedule 2, the entry relating to the Ministry of Supply Act 1939. |
| 1965 c. 33. | The Control of Office and Industrial Development Act 1965. | Section 24(1). |
| 1965 c. 47. | The Merchant Shipping Act 1965. | Section 4. |

SCH. 4

| Chapter | Short Title | Extent of Repeal |
|-------------|--|-------------------|
| 1965 c. 50. | The Monopolies and Mergers Act 1965. | Section 11(3)(c). |
| 1965 c. 66. | The Hire Purchase Act 1965. | Section 57(2). |
| 1965 c. 67. | The Hire Purchase (Scotland) Act 1965. | Section 53(2). |
| 1966 c. 34. | The Industrial Development Act 1966. | Section 13(3). |
| 1967 c. 27. | The Merchant Shipping (Load Lines) Act 1967. | Section 30(4). |
| 1967 c. 33. | The Air Corporations Act 1967. | Section 32. |
| 1967 c. 52. | The Tokyo Convention Act 1967. | Section 7(6). |
| 1967 c. 64. | The Anchors and Chain Cables Act 1967. | Section 1(8). |
| 1967 c. 81. | The Companies Act 1967. | Section 126. |
| 1967 c. 84. | The Sea Fish (Conservation) Act 1967. | Section 21. |

Instruments

| Number | Title | Extent of Repeal |
|----------------|---|------------------|
| 1939 No. 877. | The Ministry of Supply (Transfer of Powers) (No. 1) Order 1939. | Articles 1 to 4. |
| 1939 No. 1298. | The Ministry of Supply (Transfer of Powers) (No. 2) Order 1939. | The whole Order. |
| 1940 No. 762. | The Minister of Aircraft Production (Transfer of Functions) Order 1940. | The whole Order. |
| 1946 No. 374. | The Ministry of Aircraft Production (Dissolution) Order 1946. | The whole Order. |
| 1946 No. 378. | The Transfer of Functions (Various Commodities) Order 1946. | Article 5(8). |
| 1952 No. 862. | The Japanese Treaty of Peace Order 1952. | Article 25. |
| 1954 No. 1028. | The Transfer of Functions (Ministry of Materials) Order 1954. | Article 4. |
| 1955 No. 876. | The Transfer of Functions (Iron and Steel) Order 1955. | Article 6. |
| 1957 No. 1077. | The Transfer of Functions (Misdescription of Fabrics) Order 1957. | Article 3(1). |
| 1959 No. 1768. | The Minister of Aviation Order 1959. | Article 3(1). |
| 1959 No. 1827. | The Service Departments Supply (No. 1) Order 1959. | The whole Order. |

SCH. 4

| Number | Title | Extent of Repeal |
|----------------|--|------------------------------|
| 1959 No. 1975. | The Service Departments Supply (No. 2) Order 1959. | The whole Order. |
| 1965 No. 145. | The Transfer of Functions (Shipping and Construction of Ships) Order 1965. | Article 3(5). Schedule 2. |
| 1966 No. 741. | The Transfer of Functions (Civil Aviation) Order 1966. | Article 3(4). |
| 1966 No. 1595. | The Southern Rhodesia (Prohibited Trade and Dealings) Order 1966. | Article 11(2). |



Customs Duties (Dumping and Subsidies) Amendment Act 1968

1968 CHAPTER 33

An Act to make further provision as regards the imposition of duties of customs where goods have been dumped or subsidised, and as regards duties so imposed.

[3rd July 1968]

Most Gracious Sovereign,

W^E, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, with a view to affording better protection against dumping and subsidies affecting imported goods have freely and voluntarily resolved that such further provision as hereinafter appears shall be made for the imposition of certain duties; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Power to impose retrospective duties after provisional charge.
1957 c. 18.

1.—(1) Subject to the provisions of this Act, an order imposing a duty of customs under the Customs Duties (Dumping and Subsidies) Act 1957 on goods of any description may impose the duty for a period before the making of the order if during that period a provisional charge to the duty (or a greater duty) was imposed on goods of that description by an order made under that Act and remaining in force.

(2) Subject to the provisions of this Act, an order imposing on goods of any description a provisional charge to duty (in this Act referred to as a "preliminary order") may be made under the Customs Duties (Dumping and Subsidies) Act 1957 if at any time it appears to the Board of Trade, on the facts so far before them, that the conditions of section 1(1)(a) or (b) of that

Act as to the dumping or subsidisation of imports into the United Kingdom are fulfilled and that in the circumstances it is expedient to impose such a charge.

(3) A preliminary order, if not previously revoked, shall cease to have effect at the expiration of three months beginning with the date it comes into force, except in so far as it is extended by a further order made within that period, and in so far as it is so extended, shall cease to have effect at the expiration of six months beginning with that date.

(4) No duty shall be leviable by virtue only of a provisional charge imposed by a preliminary order; but the Schedule to this Act shall have effect as to the operation of a preliminary order and as to the giving of security for duty which may become payable by reference to a preliminary order, and generally as to matters arising out of the imposition of a provisional or retrospective charge to duty by virtue of this section.

(5) A preliminary order (including an order extending a previous order) shall not be taken to be an order imposing or increasing a duty of customs for the purposes of section 13(3) and (4) of the Import Duties Act 1958 as they apply by virtue of section 11(1) of the Customs Duties (Dumping and Subsidies) Act 1957, and shall accordingly be subject to annulment in pursuance of a resolution of the Commons House of Parliament. 1958 c. 6. 1957 c. 18.

(6) The report made yearly by the Board of Trade under section 11(2) of the Customs Duties (Dumping and Subsidies) Act 1957 shall deal with orders under which a provisional charge to duty has operated during the year as orders under which duties have been chargeable during the year, and with any retrospective operation in relation to the preceding year of orders made during the year.

2.—(1) An order imposing a duty of customs, or a provisional charge to such a duty, shall not be made under the Customs Duties (Dumping and Subsidies) Act 1957 in respect of the dumping or subsidisation of goods of any description as being goods which originated in or were exported to the United Kingdom from a treaty country, unless the conditions mentioned in this section are fulfilled; but subsections (2) to (4) below shall not restrict the making of orders in other cases. Special provisions as to products of G.A.T.T. countries.

(2) An order imposing a duty of customs shall not be made unless the Board of Trade are satisfied that the effect of the dumping or of the giving of the subsidy either—

- (a) is such as to cause or threaten material injury to an established industry in the United Kingdom, or such as to retard materially the establishment of an industry in the United Kingdom; or

(b) is such as to cause or threaten material injury to an established industry in another treaty country in which originate any like goods (that is, any identical or comparable goods) imported into the United Kingdom.

(3) An order imposing a provisional charge to duty shall not be made unless the facts so far before the Board of Trade indicate that the effect of the dumping or of the giving of the subsidy is such as to cause or threaten material injury to an established industry in the United Kingdom.

(4) An order shall not be made imposing a duty on goods of any description retrospectively by virtue of section 1(1) above, unless the Board of Trade are satisfied, as regards importations made during or before the period of the provisional charge, that the effect of the dumping or of the giving of the subsidy has been such as to cause material injury to an established industry in the United Kingdom.

(5) In this section "treaty country" means a country in relation to which Her Majesty's Government in the United Kingdom is for the time being bound under the provisions of the General Agreement on Tariffs and Trade concluded at Geneva in the year 1947.

1957 c. 18.

(6) In the Customs Duties (Dumping and Subsidies) Act 1957 the proviso to section 1(1) is hereby repealed.

Fair market price.

3.—(1) Section 7(3) of the Customs Duties (Dumping and Subsidies) Act 1957 (which allows the fair market price of goods in a country to be determined in certain circumstances by reference to the price obtained for goods exported from the country, or by reference to the cost or estimated cost of production with additions in respect of the selling cost and profit) shall be amended—

(a) by substituting for the words "selling cost" the words "administrative, selling or other costs"; and

(b) by adding at the end of the subsection the words—

"The price by reference to which a determination is made under this subsection may be the highest admissible price, but should be a representative price".

(2) Notwithstanding anything in section 7(2) or (3) of the Customs Duties (Dumping and Subsidies) Act 1957, where it appears to the Board of Trade that the system of trading in a country is such, as a result of government monopoly and control, that there cannot appropriately be determined in accordance with that section a fair market price in the country for particular goods, then there shall be taken as representing that fair market price such price as the Board may determine by reference to any

price obtained for goods of that description (that is to say, any identical or comparable goods) when exported to the United Kingdom from another country, with adjustments for the purpose of ensuring that the comparison to be made between the price arrived at as representing the fair market price and the export price is effectively a comparison between the prices on two similar sales.

4.—(1) Without prejudice to the generality of the powers conferred by sections 2 and 11(1) of the Customs Duties (Dumping and Subsidies) Act 1957, a duty imposed by an order under that Act may by a further order be removed (or varied) for any period or periods, whether continuous or not. Suspension of duties.
1957 c. 18.

(2) Where an order suspending a duty under the Customs Duties (Dumping and Subsidies) Act 1957 by removing it for any period or periods is revoked in whole or in part by a subsequent order, then for purposes of section 13(3) and (4) of the Import Duties Act 1958 as they apply by virtue of section 11(1) of the Customs Duties (Dumping and Subsidies) Act 1957 the subsequent order shall, as regards the annulment of the suspension, be deemed not to be an order imposing or increasing a duty of customs; and accordingly, unless for other reasons it requires to be approved by resolution of the Commons House of Parliament, it shall be subject to annulment in pursuance of a resolution of that House. 1958 c. 6.

5.—(1) This Act may be cited as the Customs Duties (Dumping and Subsidies) Amendment Act 1968. Short title,
citation,
construction
and extent.

(2) The Customs Duties (Dumping and Subsidies) Act 1957 and this Act shall be construed as one, and may be cited together as the Customs Duties (Dumping and Subsidies) Acts 1957 and 1968.

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

Section 1.

SCHEDULE

SUPPLEMENTARY PROVISIONS AS TO PROVISIONAL CHARGE TO DUTY AND AS TO RETROSPECTIVE DUTIES

1. Subject to the provisions of this Schedule, a preliminary order shall, as regards the period for which it is in force, have the same operation (except that duty shall not be levied) as if the charge to duty had not been provisional; and the lapsing of the provisional charge on the revocation or expiration of the preliminary order shall not affect the liability to any penalty, forfeiture or prosecution in respect of things done during the period of the provisional charge.

1952 c. 44.

2.—(1) Where any imported goods which are or may be subject to a provisional charge are entered for home use, whether on importation or from warehouse, then notwithstanding anything in paragraph 1 above or in the Customs and Excise Act 1952 delivery of the goods without payment of duty shall not be refused by reason of the provisional charge if the importer gives security to the satisfaction of the Commissioners of Customs and Excise for the payment of any duty which may be retrospectively charged on the goods by reference to that provisional charge; and security shall be so given where payment of the duty provisionally charged would, if the duty were leviable, be required.

(2) Where security is given by virtue of this paragraph, the customs Acts as they apply by virtue of paragraph 1 above shall have effect as if the security were one given under section 255 of the Customs and Excise Act 1952 (security for duty not immediately ascertainable).

3.—(1) Without prejudice to the generality of paragraph 1 above, the like relief in respect of a provisional charge to duty may be given by way of remission of the charge as if the charge were not provisional; and the amount of any relief given in respect of a provisional charge on any goods shall, if a duty is retrospectively charged on the goods by reference to that provisional charge,—

- (a) be set off against the amount of the retrospective duty; and
- (b) be treated as given on account of any corresponding relief from the retrospective duty.

1957 c. 18.

(2) The power under section 4 of the Customs Duties (Dumping and Subsidies) Act 1957 to provide for the allowance of drawback shall extend—

- (a) to providing for drawback in respect of a provisional charge to duty to be allowed by way of remission of the charge as if duty secured were duty paid; and
- (b) to providing for drawback of retrospective duty to be allowed on the export of goods at any time after the coming into force of the preliminary order by reference to which the duty is charged.



Agriculture (Miscellaneous Provisions) Act 1968

1968 CHAPTER 34

An Act to make further provision with respect to the welfare of livestock; to provide for additional payments for certain tenants of agricultural holdings who receive compensation for disturbance in respect of their holdings or whose land is acquired or taken possession of compulsorily or whose landlords resume possession of the land for non-agricultural purposes; to make further provision with respect to the termination of tenancies of agricultural holdings in Scotland acquired by succession; to make further provision for England and Wales with respect to drainage charges, drainage rates and grants and advances to drainage authorities; to provide for payments in respect of bacon and grants in respect of break crops and the supply of water to certain buildings; to make further provision with respect to the compensation of tenants of agricultural holdings whose land is acquired or taken possession of compulsorily; to amend section 3 of the Parks Regulation (Amendment) Act 1926, the Agricultural Wages Act 1948 and the Agricultural Wages (Scotland) Act 1949, the Restrictive Trade Practices Act 1956 in its application to agricultural marketing boards, section 53(2) of the Agricultural Marketing Act 1958, section 1 of the Agricultural and Forestry Associations Act 1962, the Plant Varieties and Seeds Act 1964 and section 49 of the Agriculture Act 1967; and for purposes connected with the matters aforesaid.

[3rd July 1968]

BE IT ENACTED by the Queen'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

WELFARE OF LIVESTOCK

Prevention of unnecessary pain and distress for livestock.

1.—(1) Any person who causes unnecessary pain or unnecessary distress to any livestock for the time being situated on agricultural land and under his control or permits any such livestock to suffer any such pain or distress of which he knows or may reasonably be expected to know shall be guilty of an offence under this section.

1876 c. 77.

(2) Nothing in the foregoing subsection shall apply to any act lawfully done under the Cruelty to Animals Act 1876 or to any thing done or omitted by or under the direction of any person in accordance with the terms of a licence issued by the Minister for the purpose of enabling that person to undertake scientific research.

Regulations with respect to the welfare of livestock.

2.—(1) The Ministers may, after consultation with such persons appearing to them to represent any interests concerned as the Ministers consider appropriate, by regulations make such provision with respect to the welfare of livestock for the time being situated on agricultural land as they think fit; and without prejudice to the generality of the foregoing provisions of this section the regulations may in particular include provision—

- (a) with respect to the dimensions and layout of accommodation for livestock, the materials to be used in constructing any such accommodation and the facilities by way of lighting, heating, cooling, ventilation, drainage, water supply and otherwise to be provided in connection with any accommodation;
- (b) for ensuring the provision of balanced diets for livestock and for prohibiting or regulating the use of any substance as food for livestock and the importation and supply of any substance intended for use as food for livestock;
- (c) for prohibiting the bleeding of livestock and the mutilation of livestock in any manner specified in the regulations, and for prohibiting or regulating the use of any method of marking or restraining livestock or interfering with the capacity of livestock to smell, see, hear, emit sound or exercise any other faculty.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, regulations under this section may—

- (a) provide that a person who contravenes or fails to comply with specified provisions of the regulations shall be guilty of an offence under this section ;
- (b) provide for exemptions, either subject to conditions prescribed by the regulations or without conditions, from any provisions of the regulations ; and
- (c) contain such incidental and supplemental provisions as the Ministers consider expedient for the purposes of the regulations.

(3) No regulations shall be made under this section unless a draft of the regulations has been approved by a resolution of each House of Parliament.

3.—(1) The Ministers may from time to time, after consultation with such persons appearing to them to represent any interests concerned as the Ministers consider appropriate,—

Codes of recommendations for the welfare of livestock.

- (a) prepare codes containing such recommendations with respect to the welfare of livestock for the time being situated on agricultural land as they consider proper for the guidance of persons concerned with livestock ; and
- (b) revise any such code by revoking, varying, amending or adding to the provisions of the code in such manner as the Ministers think fit.

(2) A code prepared in pursuance of this section and any alterations proposed to be made on a revision of such a code shall be laid before both Houses of Parliament forthwith after being prepared ; and the code or revised code, as the case may be, shall not be issued until the code or the proposed alterations have been approved by both Houses.

(3) Subject to subsection (2) of this section, the Ministers shall cause every code prepared or revised in pursuance of this section to be printed, and may cause copies of it to be put on sale to the public at such a price as the Ministers may determine.

(4) A failure on the part of any person to observe a provision of a code for the time being issued under this section shall not of itself render that person liable to proceedings of any kind ; but such a failure on the part of any person may, in proceedings against him for an offence under section 1 of this Act, be relied upon by the prosecution as tending to establish the guilt of the accused unless it is shown that he cannot reasonably be expected

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to have observed the provision in question within the period which has elapsed since that provision was first included in a code issued under this section.

Expenditure on free advice on the welfare of livestock.

4. Without prejudice to the generality of his powers to incur expenditure under the enactments relating to the eradication and prevention of diseases of animals, the Minister may, with the approval of the Treasury, spend such sums as he thinks fit on the giving of advice, free of charge, to persons concerned with livestock on matters relating to the welfare of livestock.

Extension of classes of operations in which anaesthetics must be used. 1954 c. 46.

5. The Ministers may, after consultation with the Royal College of Veterinary Surgeons and with such persons appearing to the Ministers to represent any other interests concerned as the Ministers consider appropriate, by order provide that paragraphs 7 and 8 of Schedule 1 to the Protection of Animals (Anaesthetics) Act 1954 (which exempt certain minor operations from the requirement to use anaesthetics imposed by that Act) shall not permit the performance, either in any circumstances or in such circumstances as may be specified in the order, of such operations as may be so specified.

Powers of entry, etc.

6.—(1) A person duly authorised in writing by the Minister may at any reasonable time enter upon any land, other than premises used wholly or mainly as a dwelling, for the purpose of ascertaining whether an offence under this Part of this Act has been committed on the land.

(2) A person duly authorised in writing by a local authority may at any reasonable time enter upon any land, other than such premises as aforesaid, for the purpose of ascertaining whether an offence under this Part of this Act has been committed on the land, being an offence consisting of a contravention of or failure to comply with provisions of regulations made in pursuance of section 2(1)(b) of this Act.

(3) A person authorised as mentioned in the foregoing provisions of this section to enter upon any land—

(a) shall if so required produce evidence of his authority before entering and while present on the land ; and

(b) may take with him on to the land such other persons as he considers necessary.

(4) Any person authorised as aforesaid may take for analysis a sample of any substance which he finds on the land and which appears to him to be intended for use as food for livestock ; and the provisions of subsections (2) to (7) of section 6 of the Agriculture (Poisonous Substances) Act 1952 (which relate to the dividing up, analysis and evidence of analysis of certain

1952 c. 60.

PART I

samples) and subsections (1), (4) and (5) of section 11 of that Act (Scottish application of the said section 6) shall have effect in relation to a sample taken under this section as they have effect in relation to a sample taken under the said section 6 but as if for references to that Act, an inspector and such an employer as is mentioned in the said section 6 there were substituted respectively references to this Part of this Act, the person taking the sample and a person appearing to the person taking the sample to have custody of the substance in question.

(5) Any veterinary surgeon or veterinary practitioner authorised as mentioned in subsection (1) of this section to enter upon any land may examine any livestock which he finds on the land and apply to and take from the livestock such tests and samples as he considers appropriate; and a person by whom a sample is taken from livestock in pursuance of this subsection shall, if before the sample is taken he is requested to do so by any person appearing to him to have the custody of the livestock, deliver a part of the sample or a similar sample to the person who made the request.

(6) If a person entitled to enter upon any land in pursuance of this section requests any person present on the land, being the occupier or a servant of the occupier of the land or a person having the custody of any livestock present on the land,—

(a) to indicate to the person so entitled the places on the land used for the accommodation of livestock or for the storage or treatment of any substance intended for use as food for livestock; or

(b) to facilitate the access of the person so entitled to any such place,

it shall be the duty of the person to whom the request is addressed to comply with the request so far as he is able to do so.

(7) A person who fails to perform his duty under subsection (6) of this section or otherwise wilfully obstructs a person entitled as aforesaid in the execution of that person's powers under this section shall be guilty of an offence under this section.

7.—(1) A person guilty of an offence under section 1 or section 2 of this Act shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding one hundred pounds or both, or in the case of a second or subsequent offence, to such imprisonment or a fine not exceeding two hundred pounds or both. Punishment of offences under Part I.

(2) A person guilty of an offence under section 6 of this Act shall be liable on summary conviction to a fine not exceeding twenty pounds.

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(3) In England and Wales a local authority shall, without prejudice to the powers of any other person to institute proceedings for an offence under this Part of this Act, have power to institute proceedings for such an offence as is mentioned in section 6(2) of this Act which is alleged to have been committed in their area.

Interpretation
etc. of Part I.

1947 c. 48.
1948 c. 45.

8.—(1) In this Part of this Act—

“ agricultural land ” means land used for agriculture (within the meaning of the Agriculture Act 1947 or, in Scotland, the Agriculture (Scotland) Act 1948) which is so used for the purposes of a trade or business ; and

“ livestock ” means any creature kept for the production of food, wool, skin or fur or for use in the farming of land or for such purpose as the Minister may by order specify.

1950 c. 36.

(2) Subsections (2) and (3) of section 59 of the Diseases of Animals Act 1950 (which define the expression “ local authority ”) shall have effect for the purposes of this Part of this Act as if for references to that Act there were substituted references to this Part of this Act and as if in subsection (2) the words from “ and shall ” onwards were omitted.

(3) This Part of this Act applies to officers and servants of the Crown, and references to land in this Part of this Act include references to land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, land belonging to the Duchy of Cornwall and land held on behalf of Her Majesty for the purposes of any Government department ; and in relation to any such land occupied by or on behalf of Her Majesty or the Duchy of Cornwall section 6 of this Act shall have effect as if subsection (2) were omitted.

(4) Without prejudice to the powers conferred on the Ministers, in relation to Great Britain, by sections 2 and 3 of this Act, the powers conferred on them by either of those sections may be exercised, in relation to England and Wales only, by the Minister of Agriculture, Fisheries and Food and, in relation to Scotland only, by the Secretary of State ; and references in those sections to the Ministers shall be construed accordingly.

(5) Nothing in this Part of this Act shall be construed as prejudicing any provision of the Protection of Animals Acts 1911 to 1964 or the Protection of Animals (Scotland) Acts 1912 to 1964.

PART II

ADDITIONAL PAYMENTS TO TENANT FARMERS

Additional
payments to
tenants
quitting
agricultural
holdings.
1948 c. 63.

9.—(1) Where under the Agricultural Holdings Act 1948 (hereafter in this Part of this Act referred to as “ the principal Act ”) compensation for disturbance in respect of an agricultural holding or part of such a holding becomes payable by the landlord to the tenant of the holding, then, subject to the provisions

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of this Part of this Act, there shall be payable by the landlord to the tenant, in addition to any compensation payable by the landlord to the tenant, a sum to assist in the reorganisation of the tenant's affairs of the amount prescribed by subsection (2) of this section.

(2) Subject to the provisions of this Part of this Act, the sum payable in pursuance of subsection (1) of this section shall be equal to four times the annual rent of the holding or, in the case of part of a holding, four times the appropriate portion of that rent, at the rate at which the rent was payable immediately before the termination of the tenancy of the holding or part to which the said compensation relates.

(3) In the application of this section to Scotland, in subsection (1) for the references to the Agricultural Holdings Act 1948 and the principal Act there shall be substituted respectively references to the Agricultural Holdings (Scotland) Act 1949 and the principal Scottish Act.

10.—(1) Subject to the provisions of this section, no sum shall be payable in pursuance of section 9 of this Act in a case where—

Provisions
supplementary
to s. 9 in
England and
Wales.

- (a) the Agricultural Land Tribunal, in pursuance of section 24(2)(a) of the principal Act, have consented to the operation of the relevant notice and stated in the reasons for their decision that they are satisfied as to any of the matters mentioned in paragraphs (a) to (d) of section 25(1) of that Act (which among other things relate to good husbandry, sound estate management, agricultural research and grounds of hardship), and a statement of the reasons is included in the notice ; or
- (b) the relevant notice contains a statement that the carrying out of the purpose for which the landlord proposes to terminate the tenancy is desirable on any of the grounds mentioned in paragraphs (a) to (c) of the said section 25(1) and, if an application for consent in respect of the notice is made to the Agricultural Land Tribunal (hereafter in this section referred to as "the tribunal") in pursuance of section 24(1) of the principal Act, the tribunal consent to its operation and state in the reasons for their decision that they are satisfied as to any of the matters so mentioned ; or
- (c) the relevant notice contains a statement that the landlord will suffer hardship unless the notice has effect and, if such an application as aforesaid is made in respect of the notice, the tribunal consent to its operation and state in the reasons for their decision that they are satisfied that greater hardship would be caused by withholding consent than by giving it ; or

PART II
1967 c. 22.

(d) the said section 24(1) does not apply to the relevant notice by virtue of section 29(4) of the Agriculture Act 1967 (which relates to notices to quit given by the Minister or a Rural Development Board with a view to boundary adjustments or an amalgamation).

(2) Subsection (1) of this section shall not apply in relation to the relevant notice where—

(a) the reasons given by the tribunal for their decision to consent to the operation of the notice include the reason that they are satisfied as to the matter mentioned in section 25(1)(e) of the principal Act (which relates to the use of land for certain non-agricultural purposes); or

(b) the reasons so given consist of or include the reason that the tribunal are satisfied as to the matter mentioned in section 25(1)(b) of that Act but the tribunal would have been satisfied also as to the matter mentioned in the said section 25(1)(e) if it had been specified in the application for consent,

and where the tribunal would have been satisfied as mentioned in paragraph (b) of this subsection they shall include a statement to that effect in their decision.

(3) In assessing the compensation payable to the tenant of an agricultural holding in consequence of the compulsory acquisition of his interest in the holding or part of it or the compulsory taking of possession of the holding or part of it, no account shall be taken of any benefit which might accrue to the tenant by virtue of section 9 of this Act.

(4) Any sum payable in pursuance of the said section 9 shall be so payable notwithstanding any agreement to the contrary.

1954 c. 56.

(5) The following provisions of the principal Act shall apply to sums claimed or payable in pursuance of the said section 9 as they apply to compensation claimed or payable under section 34 of that Act, that is to say, sections 34(3), 61, 70 to 73, 77, 80, 82, 83, 88, 89, 92, 94(5), 101 and Schedule 6; and paragraphs 4 and 5 of Schedule 8 to the Landlord and Tenant Act 1954 shall apply to sums so payable as they apply to the compensation mentioned in those paragraphs but as if for the word “shall” in each of those paragraphs there were substituted the word “may”.

(6) No sum shall be payable in pursuance of the said section 9 in consequence of the termination of the tenancy of an agricultural holding or part of such a holding unless the notice to quit in consequence of which the termination occurs is served on the tenant after the initial date and the termination occurs after the date of the passing of this Act.

(7) The provisions of Schedule 1 to this Act (which contains transitional provisions for certain cases) shall have effect for the purposes of this section in its application to England and Wales.

(8) In the foregoing provisions of this section, references to section 9 of this Act do not include references to it as applied by section 12 of this Act and “the relevant notice” means the notice to quit given by the landlord of the agricultural holding in question in consequence of which compensation for disturbance becomes payable to the tenant of the holding as mentioned in the said section 9; and for the purposes of paragraphs (a) and (b) of subsection (1) of this section, the purposes of the enactments relating to allotments shall be treated as excluded from the matters mentioned in section 25(1)(c) of the principal Act.

11.—(1) Subject to the provisions of this section, no sum shall be payable in pursuance of section 9 of this Act in consequence of the termination of the tenancy of an agricultural holding or part of such a holding by virtue of a notice to quit in a case where—

Provisions supplementary to s. 9 in Scotland.

(a) the relevant notice contains a statement that the carrying out of the purpose for which the landlord proposes to terminate the tenancy is desirable on any of the grounds mentioned in paragraphs (a) to (c) of section 26(1) of the principal Scottish Act and, if an application for consent in respect of the notice is made to the Scottish Land Court (hereafter in this section referred to as “the court”) in pursuance of section 25(1) of the principal Scottish Act, the court consent to its operation and state in the reasons for their decision that they are satisfied as to any of the matters so mentioned; or

(b) the relevant notice contains a statement that the landlord will suffer hardship unless the notice has effect and, if such an application as aforesaid is made in respect of the notice, the court consent to its operation and state in the reasons for their decision that they are satisfied that greater hardship would be caused by withholding consent than by giving it; or

(c) the relevant notice is a notice to which, apart from the provisions of section 18 or section 19 of this Act, section 6(3) of the Agriculture Act 1958 would apply and, if an application for consent in respect of the notice is made to the court in pursuance of the said section 25(1), the court consent to its operation and state in the reasons for their decision that they are satisfied with regard to the matter mentioned in paragraph (a), or the

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1967 c. 22.

matters mentioned in paragraph (b)(i) to (iii), or the matter mentioned in paragraph (c), of section 18(2) of this Act ; or

(d) the said section 25(1) does not apply to the relevant notice by virtue of section 29(4) of the Agriculture Act 1967 (which relates to notices to quit given by the Secretary of State or a Rural Development Board with a view to boundary adjustments or an amalgamation).

(2) Subsection (1) of this section shall not apply in relation to the relevant notice where—

(a) the reasons given by the court for their decision to consent to the operation of the notice include the reason that they are satisfied as to the matter mentioned in section 26(1)(e) of the principal Scottish Act (which relates to the use of land for certain non-agricultural purposes) ; or

(b) the reasons so given consist of or include the reason that the court are satisfied as to the matter mentioned in section 26(1)(b) of that Act or in paragraph (a) or paragraph (c) of section 18(2) of this Act but the court would have been satisfied also as to the matter mentioned in the said section 26(1)(e) if it had been specified in the application for consent,

and where the court would have been satisfied as mentioned in paragraph (b) of this subsection they shall include a statement to that effect in their decision.

(3) In assessing the compensation payable to the tenant of an agricultural holding in consequence of the compulsory acquisition of his interest in the holding or part of it or the compulsory taking of possession of the holding or part of it, no account shall be taken of any benefit which might accrue to the tenant by virtue of section 9 of this Act.

(4) Any sum payable in pursuance of the said section 9 shall be so payable notwithstanding any agreement to the contrary.

(5) The following provisions of the principal Scottish Act shall apply to sums claimed or payable in pursuance of the said section 9 as they apply to compensation claimed or payable under section 35 of that Act, that is to say, sections 35(3), 61, 68 to 70, 75 to 78, 80, 82 to 84, 90, 93(6), 100 and Schedule 6.

(6) No sum shall be payable in pursuance of the said section 9 in consequence of—

(a) the termination of the tenancy of an agricultural holding or part of such a holding by virtue of a notice to quit unless the notice in consequence of which the termination occurs is served on the tenant after the initial date and the termination occurs after the date of the passing of this Act ; or

- (b) the resumption by the landlord of possession of part of the holding in pursuance of a provision in that behalf contained in the lease unless the resumption occurs after the date of the passing of this Act.

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(7) No sum shall be payable in pursuance of section 9 of this Act in consequence of the termination of the tenancy of an agricultural holding or part of such a holding by virtue of a notice to quit where the relevant notice is given in pursuance of section 6(3) of the Agriculture Act 1958 (which relates to 1958 c. 71. notice to quit given to a tenant who has acquired right to the tenancy of the holding by virtue of section 16 of the Succession (Scotland) Act 1964 or as a legatee by virtue of section 20 of 1964 c. 41. the principal Scottish Act) and—

- (a) the landlord is terminating the tenancy for the purpose of using the land for agriculture only ; and
- (b) the notice contains a statement that the tenancy is being terminated for the said purpose :

Provided that if any question arises between the landlord and the tenant as to the purpose for which the tenancy is being terminated, the tenant shall, notwithstanding section 74 of the principal Scottish Act (matters to be referred to arbitration), refer the question to the Scottish Land Court for their determination.

(8) Section 73 of the principal Scottish Act (proceedings of the Land Court) shall apply for the purpose of the determination of any matter referred to the Scottish Land Court under subsection (7) of this section as it applies to any matter which they are required to determine under that Act.

(9) The provisions of Schedule 2 to this Act (which contains transitional provisions for certain cases) shall have effect for the purposes of this section in its application to Scotland.

(10) In this section—

- (a) references to section 9 of this Act do not include references to it as applied by section 12 of this Act ;
- (b) “ the relevant notice ” means a notice to quit given by the landlord of the agricultural holding in question in consequence of which compensation for disturbance becomes payable to the tenant of the holding as mentioned in the said section 9 ; and
- (c) for the purposes of subsection (1)(a), the purposes of the enactments relating to allotments shall be treated as excluded from the matters mentioned in section 26(1)(c) of the principal Scottish Act.

PART II
Additional payments in consequence of compulsory acquisition etc. of agricultural holdings.

12.—(1) Where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily by any person (hereafter in this Part of this Act referred to as an “acquiring authority”), an acquiring authority acquire the interest in an agricultural holding or any part of it of the tenant of the holding or take possession of such a holding or any part of it, then, subject to the provisions of this Part of this Act, section 9 of this Act shall apply as if the acquiring authority were the landlord of the holding and compensation for disturbance in respect of the holding or part in question had become payable to the tenant as mentioned in subsection (1) of that section on the date of the acquisition or taking of possession.

(2) No sum shall be payable by virtue of subsection (1) of this section in respect of any agricultural holding held on a tenancy for a term of two years or upwards except in a case where the amount of compensation payable to the tenant of the holding by the acquiring authority in consequence of the acquisition or taking of possession in question is exceeded by the aggregate of the amounts which, if the tenancy had been from year to year, would have been so payable by way of compensation and by virtue of that subsection; and in any such case the sum payable by virtue of that subsection in consequence of the acquisition or taking of possession in question shall, subject to sections 13(3) and 14(3) of this Act, be of an amount equal to the excess.

(3) No sum shall be payable to the tenant of an agricultural holding by virtue of subsection (1) of this section in consequence of such an acquiring of an interest or taking of possession as is there mentioned unless the date on which the acquisition or taking of possession occurs is later than the date of the passing of this Act and—

- (a) in the case of such an acquisition, unless the date on which notice to treat in respect of the interest to be acquired is served or treated as served on the tenant by the acquiring authority is after the initial date; and
- (b) where in the case of such a taking of possession prior notice of the taking of possession is by virtue of any enactment required to be served on the tenant by the acquiring authority, unless the date on which the notice is so served is after the initial date.

Provisions supplementary to s. 12 in England and Wales.

13.—(1) For the purposes of subsection (1) of section 12 of this Act, a tenant of an agricultural holding shall be treated as not being a tenant of it in so far as, immediately before the acquiring of the interest or taking of possession mentioned in

that subsection, he was neither in possession nor entitled to take possession of any land comprised in the holding ; and in determining for those purposes whether a tenant was so entitled, any such agreement as is mentioned in section 2(1) of the principal Act which relates to the land and has not taken effect as an agreement for the letting of the land for a tenancy from year to year shall be disregarded.

(2) Section 12(1) of this Act shall not apply where the acquiring authority require the land comprised in the holding or part in question for the purposes of agricultural research or experiment or of demonstrating agricultural methods or for the purposes of the enactments relating to smallholdings, nor where the Minister acquires the land under section 84(1)(c) of the Agriculture Act 1947 ; but where an acquiring authority exercise in relation to any land any power to acquire or take possession of land compulsorily which is conferred on the authority by virtue of sections 67, 68 or 72 of the Town and Country Planning Act 1962 or section 7 of the New Towns Act 1965, the authority shall be deemed for the purposes of this subsection not to require the land for any of the purposes aforesaid.

(3) The provisions of Schedule 3 to this Act shall have effect for the purposes of section 12 of this Act in its application to England and Wales.

14.—(1) For the purposes of subsection (1) of section 12 of this Act, a tenant of an agricultural holding shall be treated as not being a tenant of it in so far as, immediately before the acquiring of the interest or taking of possession mentioned in that subsection, he was neither in possession nor entitled to take possession of any land comprised in the holding ; and in determining for those purposes whether a tenant was so entitled, any such lease relating to the land as is mentioned in section 2(1) of the principal Scottish Act which has not taken effect as a lease of the land from year to year shall be disregarded.

(2) Section 12(1) of this Act shall not apply where the acquiring authority require the land comprised in the holding or part in question for the purposes of agricultural research or experiment or of demonstrating agricultural methods, or for the purposes of the enactments relating to smallholdings, nor where the Secretary of State acquires the land under section 57(1)(c) or section 64 of the Agriculture (Scotland) Act 1948 ; but where an acquiring authority exercise in relation to any land any power to acquire or take possession of land compulsorily which is conferred on the authority by virtue of sections 34, 35 or 39(3) of the Town and Country Planning (Scotland) Act 1947 or section 7 of the New Towns (Scotland) Act 1968, the authority

PART II shall be deemed for the purposes of this subsection not to require the land for any of the purposes aforesaid.

(3) The provisions of Schedule 4 to this Act shall have effect for the purposes of section 12 of this Act in its application to Scotland.

Effect of early
resumption
clauses on
compensation.

15.—(1) Except where compensation assessed in accordance with this subsection would be less than if this subsection were disregarded, in assessing the compensation payable by an acquiring authority to the tenant of an agricultural holding in connection with such an acquiring of an interest or taking of possession as is mentioned in section 12(1) of this Act, any provision in the contract of tenancy authorising the resumption of possession of the holding or part of it for some specified purpose other than the use of the land for agriculture shall—

- (a) in the case of an acquisition, be treated as if that provision authorised resumption of possession for the purpose in question on the expiration of twelve months from the end of the year of the tenancy current when notice to treat in respect of the acquisition was served or treated as served on the tenant ; and
- (b) in the case of a taking of possession, be disregarded.

(2) Where the tenancy of an agricultural holding or part of it terminates by reason of a notice to quit the holding or part given in pursuance of such a provision in the contract of tenancy as is mentioned in subsection (1) of this section and the tenant quits the holding or part in consequence of the notice, compensation shall be payable by the landlord to the tenant, in addition to any other compensation so payable apart from this subsection in respect of the holding or part, of an amount which is equal to the value of the additional benefit (if any) which would have accrued to the tenant if the tenancy had, instead of being terminated as provided by the notice, been terminated by it on the expiration of twelve months from the end of the year of tenancy current when the notice was given.

(3) Where the landlord of an agricultural holding in Scotland resumes land in pursuance of such a provision in the lease as is mentioned in subsection (1) of this section, compensation shall be payable by the landlord to the tenant, in addition to any other compensation so payable apart from this subsection in respect of the land, of an amount which is equal to the value of the additional benefit (if any) which would have accrued to the tenant if the land had, instead of being so resumed, been resumed at the expiration of twelve months from the end of the year of tenancy current at a date two months before the date of resumption.

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(4) Subsections (4) to (6) of section 10 of this Act shall apply to compensation claimed or payable under subsection (2) of this section, and subsections (4) to (6) of section 11 of this Act shall apply to compensation claimed or payable under subsection (3) of this section, as if for references to sums claimed or payable in pursuance of section 9 of this Act there were substituted references to compensation claimed or payable under the said subsection (2) or subsection (3), as the case may be; and section 12(3) of this Act shall apply to any increase of compensation in pursuance of subsection (1) of this section as it applies to a sum payable by virtue of section 12(1) of this Act as if for references to the said section 12(1) there were substituted references to subsection (1) of this section.

(5) For the purposes of subsections (1) to (3) of this section, the current year of a tenancy for a term of two years or upwards is the year beginning with such day in the period of twelve months ending—

- (a) for the purposes of subsection (1) or subsection (2), with the date on which the notice mentioned in that subsection is served; and
- (b) for the purposes of subsection (3), with a date two months before the resumption mentioned in that subsection,

as corresponds to the day on which the term would expire by the effluxion of time.

(6) In the application of this section to Scotland,—

- (a) in subsection (1), for the words from “contract” to “agriculture” there shall be substituted the words “lease entitling the landlord to resume land for building, planting, feuing or other purposes (not being agricultural purposes)” and in paragraph (a) for the word “possession” there shall be substituted the word “land”; and
- (b) subsection (2) shall be omitted.

16. This Part of this Act shall apply to statutory small tenants as defined in the Small Landholders (Scotland) Act 1911 subject to the modifications set out in Schedule 5 to this Act.

Application of Part II to statutory small tenants in Scotland.
1911 c. 49.

17.—(1) In this Part of this Act—

- “acquiring authority” has the meaning assigned to it by section 12(1) of this Act;
- “the initial date” means 1st November 1967;
- “possession” means actual possession;

Interpretation etc. of Part II.

PART II
1948 c. 63.

“the principal Act” means the Agricultural Holdings Act 1948; and

1949 c. 75.

“the principal Scottish Act” means the Agricultural Holdings (Scotland) Act 1949;

and unless the context otherwise requires expressions used in this Part of this Act and the principal Act or, as the case may be, the principal Scottish Act have the same meanings in this Part of this Act as in that Act.

(2) In this Part of this Act references to the termination of the tenancy of part of an agricultural holding are references to the resumption by the landlord of possession of that part of the holding and references to the acquisition of any property are references to the vesting of the property in the person acquiring it.

(3) Section 87(1) and (2) of the principal Act and section 86(1) and (2) of the principal Scottish Act (Crown land) shall have effect as if references to that Act included references to this Part of this Act.

(4) References in this section to this Part of this Act include references to Schedules 1 to 4 to this Act.

(5) In the application of this section to Scotland, in subsection (2) the words from “references to the termination” to “and” shall be omitted.

PART III

TERMINATION OF TENANCIES OF AGRICULTURAL HOLDINGS IN SCOTLAND ACQUIRED BY SUCCESSION

Termination
in case of near
relatives of
deceased
tenant.
1958 c. 71.
1964 c. 41.

18.—(1) Section 6(3) of the Agriculture Act 1958 shall not apply to a notice to quit given to a tenant who has acquired right to the lease of an agricultural holding—

- (a) by virtue of section 16 of the Succession (Scotland) Act 1964, or
- (b) as a legatee by virtue of section 20 of the principal Scottish Act,

where he is a near relative of the deceased tenant from whom he has acquired right to that lease; and accordingly section 25(1) of the principal Scottish Act shall, subject to the provisions of this section, apply to such a notice.

(2) Notwithstanding section 26(1) of the principal Scottish Act (which provides for the Scottish Land Court consenting to the operation of a notice to quit in certain circumstances), where the said section 6(3) would apart from the provisions of this section apply to the notice, the Scottish Land Court shall consent

under the said section 25(1) to the operation of a notice to quit given to such a near relative as is mentioned in the foregoing subsection—

(a) if they are satisfied that the near relative has neither sufficient training in agriculture nor sufficient experience in the farming of land to enable him to farm the holding to which the notice relates with reasonable efficiency, and if the notice contains a statement that it is given by reason of the matter aforesaid, or

(b) if they are satisfied—

(i) that the holding to which the notice relates, or where the holding forms only part of an agricultural unit, that unit, is not an agricultural unit which in the opinion of the Court is capable of providing full-time employment for an individual occupying it and for at least one other man,

(ii) that the notice is given in order to enable the landlord to use the holding for the purpose of effecting an amalgamation, and

(iii) that the amalgamation is proposed to be carried out within two years after the date of the termination of the tenancy specified in the notice, and if the notice contains a statement that it is given in order to enable the landlord to use the holding for the purpose of effecting an amalgamation and specifies the land with which the holding is to be amalgamated, or

(c) if they are satisfied that the near relative is the occupier (either as owner or tenant) of agricultural land other than the holding to which the notice relates, or, where the holding forms only part of an agricultural unit, other than that unit, being agricultural land, which—

(i) has been occupied by him since a date prior to the death of the deceased tenant from whom he has acquired right to the lease of the said holding, and

(ii) is an agricultural unit which in the opinion of the Court is capable of providing full-time employment for an individual occupying it and for at least one other man,

and if the notice contains a statement that it is given by reason of the matter aforesaid and specifies the land:

Provided that, notwithstanding that they are satisfied as aforesaid, the Court shall withhold consent to the operation of the notice if in all the circumstances it appears to them that a fair and reasonable landlord would not insist on possession.

PART III

(3) For the purposes of paragraphs (b)(i) and (c)(ii) of the last foregoing subsection, in assessing the capability of the unit of providing employment, it shall be assumed that the unit is farmed under reasonably skilled management, that a system of husbandry suitable for the district is followed and that the greater part of the feeding stuffs required by any livestock kept on the unit is grown there.

(4) The Court in giving consent to the operation of a notice to quit under the said section 25(1) as applied by this section on the grounds mentioned in subsection (2)(b) of this section shall impose such conditions as appear to them requisite for securing—

(a) that the holding to which the notice relates will be used for the purpose of effecting an amalgamation with the land specified in the notice ; and

(b) that the amalgamation will take place within two years after the date of the termination of the tenancy of the holding by reason of the notice ;

and section 26(5) of the principal Scottish Act shall not apply to such a consent.

(5) Section 30 of the principal Scottish Act shall, with any necessary modifications, apply to a condition imposed under this section as it applies to a condition imposed under section 26 of that Act.

(6) This section shall apply to any notice to quit given to such a near relative after the passing of this Act.

(7) In this section, “near relative” in relation to a deceased tenant of an agricultural holding means a surviving spouse, son or daughter, or adopted son or daughter, of that tenant.

(8) In the last foregoing subsection, the reference to an adopted son or daughter of a deceased tenant shall be construed as a reference to a son or daughter adopted by him (whether alone or jointly with any other person) in pursuance of an adoption order within the meaning of section 23(5) of the Succession (Scotland) Act 1964.

1964 c. 41.

Transitional provisions for purposes of Part III.

1958 c. 71.

19.—(1) In the case of a notice to quit given by a landlord in pursuance of section 6(3) of the Agriculture Act 1958 to the tenant of an agricultural holding who is such a near relative of a deceased tenant as is mentioned in subsection (1) of the last foregoing section, being a notice given between 26th January 1968 and the passing of this Act so as to have effect after the passing of this Act, the said section 6(3) shall not apply and section 25(1) of the principal Scottish Act shall, subject to the following provisions of this section, apply.

(2) In the case of such a notice to quit as is mentioned in the foregoing subsection, the landlord may, within one month of the passing of this Act, notify the tenant in writing that the said section 6(3) no longer applies to the notice to quit but that, in the event of the tenant serving a notice on him under the next following subsection, he will apply for the consent of the Scottish Land Court to the operation of the notice to quit on one or more of the following grounds, being a ground or grounds specified in the notification—

- (a) the matter mentioned in section 18(2)(a) of this Act ;
- (b) that possession of the holding is required for the purpose of effecting an amalgamation with land specified in the notification ;
- (c) the matter mentioned in section 18(2)(c) of this Act ;
- (d) one or more of the matters set out in section 26(1) of the principal Scottish Act :

Provided that, if the landlord has not notified the tenant under this subsection within the said month, the tenant shall be deemed to have served a counter-notice under the said section 25(1), and the period of one month referred to in section 27(1) of the principal Scottish Act shall be deemed to have expired.

(3) The tenant may, within one month of being notified in accordance with the last foregoing subsection, serve a notice on the landlord requiring that the said section 25(1) shall apply to the notice to quit, and such a notice shall be deemed to be a counter-notice served under the said section 25(1) within the period mentioned therein.

(4) Notwithstanding section 26(1) of the principal Scottish Act, the Scottish Land Court shall consent under the said section 25(1) to the operation of such a notice to quit as is referred to in subsection (1) of this section if they are satisfied with regard to—

- (a) the matter mentioned in paragraph (a), or
- (b) the matters mentioned in paragraph (b) (i) to (iii), or
- (c) the matter mentioned in paragraph (c),

of subsection (2) of the last foregoing section :

Provided that, notwithstanding that they are satisfied as aforesaid, the Court shall withhold consent to the operation of the notice if in all the circumstances it appears to them that a fair and reasonable landlord would not insist on possession.

(5) Subsections (3) to (5) of section 18 of this Act shall apply to a consent given under the said section 25(1) as applied by this section on the grounds mentioned in subsection (4)(b) of this section, as they apply to a consent given under the said section 25(1) as applied by the said section 18.

PART III

Interpretation
of Part III.

20.—(1) In this Part of this Act—

“amalgamation” means a transaction for securing that agricultural land which is comprised in a holding to which a notice to quit relates and which together with some other agricultural land could form an agricultural unit, shall be owned and occupied with that other land ; and

1949 c. 42.

“the principal Scottish Act” means the Agricultural Holdings (Scotland) Act 1949.

(2) Unless the context otherwise requires, expressions used in this Part of this Act and the principal Scottish Act have the same meanings in this Part of this Act as in that Act.

PART IV

LAND DRAINAGE

Drainage charges

Raising and
levying of
drainage
charges on an
acreage basis.

1961 c. 48.

21.—(1) Drainage charges under Part I of the Land Drainage Act 1961 (hereafter in the charges provisions referred to as “the principal Act”) shall, instead of being raised at an amount per pound on the annual value of chargeable hereditaments in river authority areas and levied on the occupiers or owners of the hereditaments, be raised at an amount per acre of chargeable land in those areas and levied on the occupiers or owners of the land in accordance with the charges provisions and the provisions of the said Part I as modified by this Act.

(2) In sections 22 to 29 of this Act and this section “the charges provisions” means those sections and this section.

Amount of
general
drainage
charge.

22.—(1) The general drainage charge raised by a river authority for any year shall be at a uniform amount per acre ascertained in accordance with subsections (2) and (3) of this section.

(2) Subject to subsection (3) of this section, the said amount shall be ascertained by—

(a) dividing the aggregate amount demanded by the precepts issued by the river authority to the councils of counties, county boroughs and London boroughs under section 87(4) of the Water Resources Act 1963 in respect of the year for which the charge is raised by the aggregate amount of the appropriate penny rate products on the basis of which the amount so demanded was apportioned in pursuance of section 87(3) of that Act among those councils ; and

1963 c. 38.

- (b) multiplying the quotient by one penny and by such number as the Minister may specify by order made for the purposes of this paragraph ;

and the number so specified shall (apart from any adjustment made to it to take account of rough grazing land) be such as the Minister considers will secure, so far as reasonably practicable, that the aggregate amount produced by any charge levied by reference to a quotient ascertained in pursuance of paragraph (a) of this subsection will be equal to the aggregate amount which, if the chargeable land in the river authority area were liable to be rated, would be produced by a rate levied on that land at an amount in the pound (of rateable value) equal to that quotient multiplied by one penny.

(3) Where an amount ascertained in pursuance of subsection (2) of this section includes a fraction of a penny, the fraction shall—

- (a) if it is one farthing or less, be disregarded ;
- (b) if it is greater than one farthing but less than three farthings, be treated as one half-penny ;
- (c) if it is three farthings or more, be treated as one penny.

(4) An order under this section may be made so as to apply either to all general drainage charges which may be raised by river authorities or to the general drainage charges proposed to be raised by any one or more river authorities specified in the order, and any such order applying to the charges of more than one river authority may make different provision as respects the charges of the different authorities.

(5) In subsection (2) of this section “ appropriate penny rate product ” has the same meaning as that expression has for the purposes of the said section 87, and the reference in that subsection to subsection (4) of that section does not include a reference to it as applied by subsection (5) of that section.

23.—(1) The special drainage charge raised by a river authority for any year shall be at a uniform amount per acre of the chargeable land included in the area designated for the purposes of the charge by the scheme authorising it, being an amount which exceeds neither—

Amount of special drainage charge.

- (a) an amount to be specified in the scheme as the maximum amount of the charge or such greater amount as may be authorised for the purposes of the scheme by an order made by the Minister on the application of the river authority ; nor

PART IV

(b) two shillings or such other amount as may be substituted for two shillings by an order made by the Minister and approved by a resolution of the Commons House of Parliament.

(2) An order under paragraph (b) of subsection (1) of this section may be made so as to apply either to all special drainage charges which may be raised by river authorities or to the special drainage charges proposed to be raised by one or more river authorities specified in the order or to the special drainage charges proposed to be raised in pursuance of one or more schemes made under section 3 of the principal Act and so specified; and any such order applying to the charges of more than one river authority or authorised by more than one such scheme may make different provision as respects the charges of the different authorities or the charges authorised by the different schemes, as the case may be.

Reduced liability for drainage charges in certain cases.

24.—(1) Where the area of chargeable land in respect of which, apart from this section, a sum is payable by any person by way of a drainage charge consists of or includes a fraction of an acre, then for the purpose of calculating that sum the fraction shall be disregarded if it is less than one-half and treated as one acre in any other case.

(2) The sum payable by way of a drainage charge in respect of chargeable land consisting of commercial woodlands shall be calculated as if the area of the land were one-fifth of its actual area; and in the application of subsection (1) of this section to such chargeable land the area ascertained in pursuance of this subsection (and not the area of which it is one-fifth) shall be treated as the area mentioned in that subsection.

Arrangements for payment of drainage charges by owners of land.

25.—(1) A river authority may make arrangements with the owner of any chargeable land for any drainage charges which may be raised by the authority for any period in respect of the land to be levied on the owner instead of on the occupier of the land; and where such arrangements are made the charges in question shall be levied on the owner instead of on the occupier of the land and any reference to an occupier in the charges provisions (except this section) and in Part I of the principal Act shall be construed accordingly.

(2) Where in pursuance of any such arrangements the owner of any land pays drainage charges in respect of the land to a river authority before the expiration of the period of two months beginning with the date of the service on him of the demand for the charges or before the expiration of one half of the period for which the charges are raised, the authority shall make to him an allowance equal to ten per cent. of the full amount of the

charges ; but no such allowance shall be made in respect of charges which, apart from this section, are payable for any period by the owner in pursuance of section 13 of the principal Act.

(3) It shall be the duty of a river authority by whom arrangements are made under this section to give notice of the arrangements forthwith after they are made to the occupier of the land affected by them.

(4) The owner of any land who is a party to any arrangements under this section in respect of the land may recover from the occupier of the land a sum equal to the amount of any drainage charges in respect of the land which, apart from the arrangements, would be payable by the occupier.

(5) The occupier of any chargeable land may, by notice given to the river authority in whose area the land is situated,—

- (a) determine that no arrangements under the foregoing provisions of this section shall be made in respect of the land and that any such arrangements previously made shall cease to have effect so far as they relate to the land and any drainage charge to be raised for a period beginning after the date on which the notice takes effect ;
- (b) revoke any determination under paragraph (a) above so far as it prohibits the making of such arrangements in respect of the land ;

and a notice under this subsection shall take effect on the day following that on which it is given to the river authority.

(6) It shall be the duty of a river authority to whom notice is given under subsection (5) of this section to send a copy of the notice to the owner of the land to which it relates.

26.—(1) A river authority may serve on any person appearing to them to be the occupier of any land in their area a notice requiring him to furnish to the authority, within twenty-eight days beginning with the date of service of the notice on him, a return in writing, in such form as may be specified in the notice, containing such particulars as may reasonably be required for the purpose of enabling the authority to determine how much, if any, of the land occupied by him in their area is chargeable land and how much, if any, of it consists of commercial woodlands.

Power to require information.

(2) A river authority may make arrangements with the Minister for the exercise by him on behalf of the authority,

PART IV in such cases as may be determined in pursuance of the arrangements, of the powers conferred on the authority by subsection (1) of this section ; and any such arrangements shall contain provision for the reimbursement by the authority of any expenses incurred by the Minister in pursuance of the arrangements.

1948 c. 26. (3) Subsections (4) and (5) of section 58 of the Local Government Act 1948 and so much of subsection (6) of that section as does not relate to imprisonment (which provide for a fine of twenty pounds for failure or continued failure to comply with a notice under that section requiring information and a fine of one hundred pounds for making false statements in a return to such a notice) shall apply for the purposes of this section as they apply for the purposes of that section.

Minor and consequential modifications of enactments.

27.—(1) Part I of the principal Act shall have effect subject to the modifications set out in Schedule 6 to this Act, being modifications consequential upon the charges provisions.

(2) In section 5(2) of the principal Act (which requires any drainage charge to be raised in the year preceding that for which it is raised), for the words “in the year preceding that” there shall be substituted the words “before or during the year”.

(3) In section 6(2) of the principal Act (which requires notice of the raising of a drainage charge to be affixed in a public or conspicuous place and published in a newspaper), the words from “affixed” to “and” shall be omitted.

(4) In section 8(3) of the principal Act (which provides for notice of amendments of drainage charges to be served on each owner and occupier concerned) the words “owner and” shall be omitted.

(5) In section 9(1) of the principal Act (which provides for appeals to quarter sessions in connection with demands for drainage charges) for the words from “on any ground” onwards there shall be substituted the words “he may appeal to the county court for the area in which the land or any part of it is situated”.

1963 c. 38.
S.I. 1964
No. 1251.
S.I. 1965
No. 701.

(6) The references to chargeable hereditaments in section 8(4) of the Water Resources Act 1963, article 10(1) of the Thames Conservancy (New Functions of River Authorities in Thames Catchment Area) Order 1964 and article 5(1) of the Lee Conservancy Catchment Board (New Functions of River Authorities) Order 1965 shall continue to have the meaning assigned to them by the principal Act as originally enacted but shall be construed as including references to chargeable land.

28.—(1) Nothing in the charges provisions shall affect any general drainage charge raised before the date of the passing of this Act, and accordingly the principal Act shall continue to have effect in relation to any such charge as if this Act had not been passed.

PART IV
Transitional provisions
for general drainage charges.

(2) Any river authority who have raised a general drainage charge before the date aforesaid may, if they think fit, determine that this subsection shall apply to the authority for any of the years ending with 31st March 1969, 31st March 1970 or 31st March 1971 in respect of which the authority have not already made a determination under this subsection; and where an authority have made a determination under this subsection with respect to any year they may raise a general drainage charge for that year as if section 52 of this Act and the charges provisions, except sections 21(2), 27(2) and (3) and 29 and this section, had not been passed.

(3) A river authority who have made a determination under subsection (2) of this section may, if they think fit, also determine that this subsection shall apply to the authority for the year or years to which the determination under that subsection relates; and where an authority have made a determination under this subsection—

(a) the principal Act and any regulations under section 2 of that Act shall have effect, in relation to any general drainage charge to be raised by the authority in accordance with the said subsection (2) for the year or, as the case may be, each of the years aforesaid as if—

(i) section 2(3) of that Act (which defines precept rates) and any corresponding provision of the regulations were omitted; and

(ii) for any reference to the precept rate for any year in section 2(2) of that Act and those regulations there were substituted a reference to the amount produced by multiplying one penny by the quotient ascertained, for the purposes of the charge for the year in question, in pursuance of section 22(2)(a) of this Act; and

(b) the excepted provisions mentioned in subsection (2) of this section shall be treated as including section 22 of this Act so far as that section is required for the purposes of sub-paragraph (ii) above.

(4) A river authority who have made a determination under subsection (2) of this section, or determinations under subsections (2) and (3) of this section, with respect to any year

PART IV

shall not be entitled to raise a general drainage charge for that year otherwise than in accordance with the provisions of the said subsection (2) or, as the case may be, of the said subsections (2) and (3); but subject to that, nothing in those subsections shall prevent a river authority from raising a general drainage charge in accordance with the charges provisions other than those subsections.

Interpretation
etc.—
drainage
charges.

29.—(1) In the charges provisions—

“chargeable land” means, in relation to a river authority area, the agricultural land and agricultural buildings in so much of the area as does not fall within an internal drainage district, excluding rough grazing land and woodlands other than commercial woodlands;

“commercial woodlands” means woodlands managed on a commercial basis with a view to the realisation of profits;

1961 c. 48.

“the principal Act” means the Land Drainage Act 1961; and

“rough grazing land” means land used as pasture ground on which the vegetation consists solely or mainly of one or more of the following, that is to say, bracken, gorse, heather, rushes and sedge, and land so used which is unsuitable for mowing by machine and on which the vegetation consists solely or mainly of grasses of poor feeding value.

(2) The charges provisions shall be construed as one with the principal Act.

(3) Without prejudice to subsection (2) of this section, references to the principal Act and Part I of that Act in section 51 of that Act (application to the Crown) and in section 52(4) of that Act (interpretation) shall be construed as including references to the charges provisions.

Drainage rates

Adjustment of
annual values
to secure fair
distribution
of burden
of drainage
rates.

30.—(1) If a drainage board are of the opinion that the amount of the annual value of any relevant land in their district should, for the purpose of securing that the burden of the drainage rates payable in respect of all land in their district is fairly distributed so far as reasonably practicable among the persons liable to pay those rates, be increased or reduced having regard to changes in the circumstances by reference to which the annual value of the land in question or of any other relevant land in the district was fixed, the board may make a determination specifying as the annual value of that land such

greater or smaller amount than the amount aforesaid as they consider just for that purpose, having regard to the changes and to any other alterations of annual values under this section made or proposed by the board.

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(2) If the owner or occupier of any relevant land in a drainage district is of the opinion that, having regard to such changes as aforesaid, the amount of the annual value of the land should be altered for the purpose mentioned in subsection (1) of this section, he may request the drainage board in writing to make such a determination in respect of the land as is so mentioned; and where such a request is made the board shall either comply with it or, if they consider that no alteration of the value is required for the purpose aforesaid, determine that the request be refused.

(3) Where a drainage board make a determination under the foregoing provisions of this section, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 32 of this Act, on the owner and occupier of the land to which the determination relates.

(4) Subject to section 33 of this Act, where a determination in respect of any land is made under subsection (1) of this section, the annual value of the land shall, for the purposes of any drainage rate made after the effective date, be that specified in the determination; and where such a determination specifying an annual value is made under subsection (2) of this section, the annual value of the land shall, for the purposes of any drainage rate made in respect of any period included in the financial year in which the request for the determination was made and any drainage rate made in respect of any subsequent period, be that specified in the determination.

For the purposes of this subsection—

“the effective date” means the date on which notices of the determination in question are served in pursuance of subsection (3) of this section on the owner and occupier of the land to which the determination relates or, where the notices are served on different dates, the later of those dates; and

“financial year”, in relation to any drainage board, means the year fixed with respect to the board as mentioned in section 26(2) of the Land Drainage Act 1930.

1930 c. 44.

(5) Where the annual value of any land is altered by a determination under subsection (2) of this section and drainage rates for any period in respect of the land have been or are subsequently paid by reference to its annual value before the

PART IV alteration, then if the period is one for which, in accordance with subsection (4) of this section, the amount of those rates falls to be assessed on the value specified in the determination, that amount shall be recalculated accordingly and any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.

(6) In this section “relevant land” means land in respect of which drainage rates fall to be assessed on, or on one-third of, the annual value of the land.

Apportionment of certain rateable values for purposes of drainage rates.

31.—(1) Where the property which constitutes a hereditament for the purpose of drainage rates consists of or includes a part only of land for which a rateable value is shown in the current valuation list, the drainage board for the drainage district in which the hereditament is situated may if they think fit, and shall if the owner or occupier of the part in question requests them in writing to do so, determine that that list and each other valuation list from time to time in force in which a rateable value is shown for that land shall have effect—

1961 c. 48.

(a) for the purposes of subsections (4) to (6) of section 22 of the Land Drainage Act 1961 (which provide for the assessment of drainage rates by reference to rateable values); and

(b) for the purpose of arriving at the relative fraction in pursuance of section 23 of that Act in a case where any other part of that land is situated outside the drainage district aforesaid,

as if such proportion of the rateable value so shown as is specified in the determination were shown in the list in question as the rateable value for that part.

(2) Where a drainage board make a determination under subsection (1) of this section, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 32 of this Act, on the owner and occupier of the part of the land to which the determination relates.

(3) A determination made by a drainage board under this section shall, subject to section 33 of this Act, have effect for the purposes of any drainage rate made by the board on or after the effective date, but shall not affect any rate so made before that date; and in this subsection “the effective date” means the date on which notices of the determination are served in pursuance of subsection (2) of this section on the owner and occupier there mentioned or, where the notices are served on different dates, the later of those dates.

32.—(1) Where a determination in respect of any land is made by a drainage board under section 30 or section 31 of this Act, the owner and occupier of the land or either of them may, subject to the following provisions of this section, appeal against the determination in accordance with those provisions. PART IV
Appeals
against
determinations
under s. 30
or s. 31.

(2) An owner or occupier who wishes to appeal against such a determination must, before the expiration of the period of twenty-eight days beginning with the date of service of notice of the determination on him in pursuance of section 30 or section 31 of this Act, as the case may be, or of such longer period as the drainage board may allow either generally or in any particular case, serve on the board a notice objecting to the determination and stating the grounds of the objection.

(3) Where notice of objection to a determination is served in pursuance of subsection (2) of this section, the drainage board may if they think fit, before the expiration of the period of twenty-eight days beginning with the date of service of the notice on them, cancel the determination and, subject to subsection (4) of this section, make in its place a fresh determination under the provisions of section 30 or section 31 of this Act under which the cancelled determination was made; and this section and the other provisions of those sections shall apply to the fresh determination accordingly.

(4) Where notice of objection is served in pursuance of subsection (2) of this section in respect of a determination made by a drainage board under section 30(1) of this Act, the board may cancel the determination in accordance with subsection (3) of this section without making a fresh determination in its place; and in such a case the board shall serve notice of the cancellation on the person by whom the notice of objection was served on them.

(5) Where notice of objection to a determination is served in pursuance of subsection (2) of this section and is not withdrawn before the expiration of the period mentioned in subsection (3) of this section and the drainage board do not cancel the determination in accordance with the said subsection (3), they shall, forthwith after the expiration of that period, transmit the notice and a note of the determination to the clerk to the local valuation panel for the time being constituted in pursuance of the General Rate Act 1967 for the area in which the land to which the determination relates is situated or, where different parts of that land are situated in different areas for which local valuation panels are so constituted, to the clerk to such one of those panels as may be determined by or under regulations made by the Minister. 1967 c. 9.

PART IV

(6) The transmission in pursuance of subsection (5) of this section of a notice of objection to a determination of a drainage board shall constitute the lodging of an appeal against the determination, by the person who served the notice on the board, to a local valuation court constituted in accordance with section 33 of this Act.

(7) The references in subsection (1) of this section to land in respect of which a determination is made under section 31 of this Act are references to the part of the land for which a value falls to be ascertained by reference to the determination.

Hearing and
determination
of appeals.

33.—(1) It shall be the duty of the chairman or a deputy chairman of the local valuation panel to whose clerk a notice of objection is transmitted in pursuance of section 32 of this Act to arrange for the convening of a local valuation court to hear and determine the appeal to which the notice relates; and subsections (5) and (6) of section 88 of the said Act of 1967 shall apply to the constitution of the court and to the rehearing of the appeal in case of such a failure to agree as is mentioned in the said subsection (6).

(2) Subsection (2) of section 76 of the said Act of 1967 (which regulates the procedure of local valuation courts) shall apply to a court convened in pursuance of subsection (1) of this section as if for the reference to the Minister of Housing and Local Government there were substituted a reference to the Minister and as if the reference to subsection (3) of that section were omitted.

(3) On the hearing of an appeal to a local valuation court in pursuance of this section, the following persons, that is to say—

- (a) the person whose notice of objection to the determination in question has resulted in the hearing; and
- (b) any other person who is the owner or occupier of any land to which the determination relates; and
- (c) the drainage board by whom the determination was made,

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) The court to which an appeal is brought in pursuance of the foregoing provisions of this section shall, after hearing the persons mentioned in subsection (3) of this section or such of them as desire to be heard, either quash the determination to which the appeal relates or alter the determination in such manner as the court thinks just or dismiss the appeal.

(5) Section 77 of the said Act of 1967 (which provides for appeals from local valuation courts to the Lands Tribunal) shall have effect in relation to a decision of a local valuation court under this section as if for the reference to section 76 of that Act there were substituted a reference to the foregoing provisions of this section and as if the words from “and the valuation officer” onwards were omitted.

(6) Where the amount of any drainage rate has been calculated by reference to an annual value specified in a determination under section 30 of this Act or a rateable value attributable to a determination under section 31 of this Act and the determination is quashed or altered on appeal or cancelled in accordance with section 32(3) of this Act, then, except in so far as the parties agree otherwise, that amount shall be recalculated accordingly and any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates; and where such a determination which has been quashed is subsequently restored on appeal, the amount of any drainage rate falling to be recalculated in consequence of the appeal shall, except as aforesaid, be recalculated accordingly and any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as aforesaid.

34.—(1) Sections 32 and 33 of this Act shall apply to decisions of drainage boards under section 29(2) of the Land Drainage Act 1930 as they apply to determinations of drainage boards under section 30(1) of this Act, but as if for the reference in section 32(2) to the date of service of notice of the determination in pursuance of section 30 of this Act there were substituted a reference to the date of service of notice of the decision in pursuance of section 29(3) of the said Act of 1930 and as if for any reference in section 33(6) to a determination under section 30 of this Act there were substituted a reference to a decision under the said section 29(2). Transfer to local valuation courts of appeals from certain decisions of drainage boards. 1930 c. 44.

(2) Accordingly the said Act of 1930 shall have effect subject to the following amendments, that is to say—

(a) in section 29(3) (which among other things provides for appeals to a magistrates’ court from decisions under section 29(2)) for the words from “within twenty-eight days” onwards there shall be substituted the words “appeal against the decision in accordance with section 34 of the Agriculture (Miscellaneous Provisions) Act 1968”;

(b) in section 30(1) for the words “under the last preceding section have appealed to a court of summary jurisdiction” there shall be substituted the words “have

PART IV appealed in pursuance of section 29(3) of this Act ” ;
and

- (c) in section 31(3) for the words “ to a court of summary jurisdiction ” there shall be substituted the words “ on an appeal in pursuance of section 29(3) of this Act ”.

Registers of drainage hereditaments.

35.—(1) It shall be the duty of each drainage board—

- (a) to prepare in the prescribed form and within the prescribed period, or such longer period as the Minister may allow in any particular case, a register containing the prescribed information in respect of the drainage hereditaments in their district and a map showing the prescribed particulars of such of those hereditaments as are of the prescribed description ;
- (b) to maintain the register and map prepared by them in pursuance of paragraph (a) above and to alter the register or map in such circumstances and in such manner and within such periods as may be prescribed ;
and
- (c) to keep the register and map maintained by them in pursuance of this subsection open to inspection at prescribed places by members of the public at all reasonable times.

(2) In subsection (1) of this section “ prescribed ” means prescribed by regulations made by the Minister.

Supplemental provisions— drainage rates.
1967 c. 9.

36.—(1) In section 92(1) of the General Rate Act 1967 (which among other things relates to the appointment of persons to assist local valuation panels in the performance of their functions under Part V of that Act) the reference to Part V of that Act shall include a reference to section 33 of this Act.

1930 c. 44.

(2) In section 75 of the Land Drainage Act 1930 (service of notices) and section 77 of that Act (Crown application), references to that Act shall be construed as including references to sections 30 to 34 of this Act.

Grants to drainage authorities

Further powers to make grants and advances to drainage authorities.

37.—(1) The Minister may, with the approval of the Treasury, make to a river authority grants in respect of expenditure incurred by the authority, and advances on account of expenditure to be incurred by the authority, in connection with the authority’s functions under section 34(1)(b) or (c) of the Land Drainage Act 1930 (which relate to the improvement of existing works and the construction of new works)—

- (a) in making payments arising from the exercise of any of the powers conferred on the authority by sections 65 and

66 of the Water Resources Act 1963 (which among other things provide for the acquisition of land and rights over land); PART IV
1963 c. 38.

- (b) in providing housing accommodation for persons employed or to be employed by the authority in controlling works of such a kind or so located that those persons are or will be required to reside in the vicinity of the works;
- (c) in making payments in pursuance of subsection (3) of section 34 of the said Act of 1930 (which provides for compensation for injury arising from the exercise of the powers conferred by that section);
- (d) in paying compensation in pursuance of section 38(1C) of the said Act of 1930 (which relates to injury arising from the deposit of matter on the banks of water courses) in respect of injury which the Minister considers was or will be unavoidable,

and grants in respect of or advances on account of expenditure incurred or to be incurred in carrying out works for the rebuilding or repair of any bridge maintained by the authority, other than works appearing to the Minister to be maintenance works of a routine kind.

(2) The Minister may, with the approval of the Treasury, make to an internal drainage board grants in respect of expenditure incurred by the board, and advances on account of expenditure to be incurred by the board, in carrying out works for the rebuilding or repair of any bridge maintained by the board, other than works appearing to the Minister to be maintenance works of a routine kind.

(3) Where a drainage authority are about to incur expenditure in respect of which it appears to the Minister that a grant will be payable under section 38(2) of the Land Drainage Act 1961 (which provides for grants in respect of certain expenditure incurred with a view to the carrying out of drainage works), the Minister may, with the approval of the Treasury, make advances to the authority on account of the expenditure. 1961 c. 48.

(4) The Minister may, with the approval of the Treasury, make to a river authority grants in respect of the cost of any works executed by the authority in pursuance of section 35 of the said Act of 1961 (under which a drainage board may execute by agreement with and at the expense of any other person any drainage works which that person is entitled to execute); and the reference to expense in that section shall be construed as excluding the amount of any grant paid under this subsection in respect of the works in question.

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(5) Nothing in the foregoing provisions of this section shall be construed as prejudicing any power of the Minister to make grants or advances under any other enactment.

(6) Expressions used in this section and the said Act of 1930 have the same meanings in this section as in that Act.

PART V

MISCELLANEOUS AND GENERAL

Payments in respect of bacon, break crops and water supply

Stabilising and
levy payments
in respect of
bacon.

38.—(1) If it appears to the Minister appropriate to make a scheme under this section for the purpose of avoiding undue fluctuations in income arising from carrying on the business of curing bacon in the United Kingdom or in any part of the United Kingdom mentioned in subsection (2) of this section, he may, with the approval of the Treasury, make a scheme providing for—

- (a) the making by the Minister, in such circumstances as may be determined under the scheme, of payments to bacon curers in respect of bacon produced by them (hereafter in this section referred to as “stabilising payments”); and
- (b) the making by bacon curers, in such circumstances as may be so determined, of payments to the Minister in respect of bacon produced by them (hereafter in this section referred to as “levy payments”).

(2) A scheme under this section may be made for England and Wales, for Scotland, for Northern Ireland or for any two or all of those parts of the United Kingdom jointly; and in relation to a scheme made jointly for Scotland and any other part or parts of the United Kingdom, references to the Minister in subsection (1) of this section, except paragraphs (a) and (b), and in subsection (3)(i) of this section shall be construed as references to the Ministers and any other references to the Minister in subsections (1) and (3) of this section shall, if the scheme so provides, be construed as references to the Minister of Agriculture, Fisheries and Food.

(3) Any such scheme may—

- (a) specify the considerations to which regard is to be had in determining the circumstances in which any stabilising payments or levy payments are to be made;
- (b) enable the Minister to determine the rates, or the method of calculating the rates, of any such payments;
- (c) enable the Minister to determine which bodies and persons are to be treated as bacon curers for the

purposes of the scheme and what categories of pigmeat are to be treated as bacon for those purposes ;

- (d) provide for the registration of bacon curers for the purposes of the scheme ;
- (e) provide for the keeping and inspection of records and the furnishing of information for the purposes of the scheme ;
- (f) specify conditions subject to which stabilising payments may be made ;
- (g) enable the Minister to determine the times at which levy payments are to be made, and provide for the recovery of arrears of levy payments ;
- (h) enable the Minister to estimate the amount of any levy payments payable by a bacon curer who, in the opinion of the Minister, has failed to furnish any information necessary to enable that amount to be properly determined, and to treat the estimated amount as the amount of those payments ;
- (i) contain provisions generally for securing that payments in pursuance of the scheme are properly made, and such incidental and supplemental provisions as the Minister considers expedient for the purposes of the scheme.

(4) Different provision may be made by or under such a scheme with respect to bacon curers and bacon of such different categories as may be specified in or under the scheme.

(5) A scheme under this section shall, unless previously revoked, cease to have effect on such date as may be specified in the scheme, not being later than the expiration of the period of three years beginning with the date on which the scheme is made ; but any levy payments payable by virtue of such a scheme immediately before it ceases to have effect may be recovered as if the scheme were still in force.

39.—(1) For the purpose of obtaining any information re-
 quired for the purposes of a scheme under section 38 of this Act, an authorised officer of the Minister or, in Northern Ireland, of the Ministry of Agriculture for Northern Ireland may, on producing if so required a duly authenticated document showing his authority, enter at any reasonable time any premises (other than premises used wholly or mainly as a dwelling) which he has reasonable cause to believe are used for the curing of bacon ; and any person who wilfully obstructs any other person in the exercise of the powers conferred on that other person by this subsection shall be liable on summary conviction to a fine not exceeding twenty pounds.

Provisions
 supplementary
 to s. 38.

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(2) Any person who wilfully fails to comply with any requirement imposed on him by virtue of section 38(3)(e) of this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(3) Any person who knowingly or recklessly makes any false entry in any document or any other false statement—

- (a) in keeping any record or furnishing any information which he is required to keep or furnish in pursuance of the said section 38(3)(e); or
- (b) for the purpose of obtaining for himself or any other person a stabilising payment in pursuance of the said section 38; or
- (c) for the purpose of avoiding or assisting another person to avoid any levy payment in pursuance of that section, shall be liable, on summary conviction, to a fine not exceeding four hundred pounds or, on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

Grants for
break crops.

40.—(1) The Minister may, in accordance with a scheme made with the approval of the Treasury, make payments in respect of break crops of such descriptions as may be specified in the scheme which are grown for harvesting in any period of twelve months so specified or for feeding to stock in any such period.

(2) A scheme under this section may be made by the Minister for England and Wales, for Scotland, for Northern Ireland or for any two or all of those parts of the United Kingdom jointly; and in relation to a scheme made jointly for Scotland and any other part or parts of the United Kingdom, references to the Minister in this section, except subsection (1) and subsection (3)(d), shall be construed as references to the Ministers.

(3) Any scheme under this section may—

- (a) specify the rate of payments under the scheme for crops of any description and provide for different rates for crops of different descriptions and for crops of the same description in different circumstances;
- (b) provide for the making of payments under the scheme in respect of a single period of twelve months, or of consecutive periods of twelve months not exceeding five such periods;
- (c) specify the minimum acreage or weight of crop in respect of which payments may be made to any person and provide for the manner in which acreages and weights are to be determined for the purposes of the scheme;

- (d) make provision as to the persons to whom the payments may be made and for securing that no payment is made unless it is applied for at such time and in such manner as the Minister may direct ;
- (e) provide for the payments to be withheld, or for their amounts to be reduced to any extent determined by or under the scheme, in such circumstances as may be so determined ; and
- (f) contain provisions generally for securing that the payments are properly made, and such incidental and supplemental provisions as the Minister considers expedient for the purposes of the scheme.

(4) Any person who knowingly or recklessly makes a false statement for the purpose of obtaining for himself or any other person a payment in pursuance of a scheme under this section, shall be liable as mentioned in section 39(3) of this Act.

(5) In this section “break crops” means field beans and any other crops of a kind which, in the opinion of the Minister, it is appropriate to grow with a view to changing temporarily, for the benefit of future crops, the crops on land usually used for growing wheat or barley, but does not include wheat, barley, oats, rye, potatoes and sugar beet.

41.—(1) Section 15(1) of the Agriculture (Miscellaneous War Provisions) Act 1940 (which provides for grants towards, among other things, expenditure incurred in carrying out certain schemes for the supply of water to agricultural land in England and Wales) shall have effect as if after the words “the supply of water to any such land” there were inserted the words “or to any building used in connection with any such land”.

Grants towards cost of water supply to agricultural buildings.
1940 c. 14.

(2) Section 16 of the Agriculture Act 1937 (which provides for grants in respect of, among other things, expenditure on the supply of water to agricultural land in Scotland) shall have effect as if after the word “thereto” there were inserted the words “or to any building used by them for the purposes of agriculture as defined in section 86(3) of the Agriculture (Scotland) Act 1948”.

1937 c. 70.
1948 c. 45.

Miscellaneous

42.—(1) Subject to the following provisions of this section, where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority acquire the interest in an agricultural holding or any part of it of the tenant of the holding or take possession of such a holding or any part of it, the compensation payable by the authority to the tenant in connection with the acquisition or

Compensation in connection with compulsory acquisition etc. of agricultural holdings.

PART V taking of possession shall be assessed without regard to the tenant's prospects, if any, of remaining in possession of the holding after the relevant date.

(2) In subsection (1) of this section "the relevant date" means the earliest date on which, apart from the acquisition or taking of possession, the landlord could obtain possession of the holding in pursuance of such a notice to quit as is mentioned in paragraph (c) below if—

- (a) the tenant exercised any tenant's option to extend or renew the tenancy in any case where, apart from this section, he would benefit from doing so ; and
- (b) the landlord disregarded any provision in the contract of tenancy or lease enabling him to resume possession of the holding or to determine the tenancy by notice before the date fixed for the expiration of its term or before the termination of the stipulated endurance of the lease ; and
- (c) the landlord served a valid notice to quit on the tenant in respect of the holding on the date of service of notice to treat in respect of the acquisition or the date of the taking of possession, as the case may be, or as soon thereafter as he became entitled to serve such a notice to quit ; and
- (d) the provisions of section 24 of the principal Act or section 25 of the principal Scottish Act (which restrict the operation of notices to quit) did not apply to the said notice to quit ;

and for the purposes of this subsection any such notice as is mentioned in section 3(1) of the principal Act (which refers to notices of intention to terminate the tenancy of an agricultural holding granted for a term of two years or upwards) shall be deemed to be a notice to quit.

(3) Subsection (1) of this section shall not apply to such an acquisition or taking of possession as is there mentioned—

- (a) in the case of such an acquisition, unless the date on which notice to treat in respect of the interest to be acquired is served or treated as served on the tenant by the acquiring authority is after the date of the passing of this Act ;
- (b) where in the case of such a taking of possession prior notice of the taking of possession is by virtue of any enactment required to be served on the tenant by the acquiring authority, unless the date on which the notice is so served is after the date of the passing of this Act.

(4) Section 17 of this Act shall have effect as if any reference to Part II of this Act, other than the reference in subsection (4), included a reference to the foregoing provisions of this section.

(5) Nothing in this section shall be construed as prejudicing the provisions of any other enactment under which, apart from this section, compensation in respect of any such compulsory acquisition or taking of possession as is mentioned in subsection (1) of this section falls to be assessed without regard to the prospects there mentioned.

43.—(1) In Part I of the Plant Varieties and Seeds Act 1964, after section 5, there shall be inserted the following section:—

Requirement to use registered names on sale of reproductive material.

5A.—(1) Where a name is registered under section 5 of this Act for any plant variety, it shall be unlawful for any person to use, in selling or offering for sale material of that variety being—

- (a) reproductive material ; or
- (b) material to which plant breeders' rights are extended under paragraph 1 of Schedule 3 to this Act,

any name which serves or is intended by him to serve to distinguish that material from material of other plant varieties within the same class but is not the name so registered.

(2) Subsection (1) of this section shall not apply to a person who reasonably believes that the material is to be exported from Great Britain.

(3) Subsection (1) of this section shall have effect in relation to any plant variety from the date on which the grant of plant breeders' rights in respect of that variety takes effect, and shall continue to apply after the period for which those rights are exercisable.

(4) Subsection (1) of this section shall not preclude the use, in connection with the registered name of a plant variety, of any trade mark or trade name (whether registered under the Trade Marks Act 1938 or not) other than a mark or name which is used or intended to be used exclusively in connection with the first-mentioned name.

(5) A person who contravenes this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both ; but it shall be

1938 c. 22.

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a defence in proceedings under this section to prove—

- (a) that the accused took all reasonable precautions against committing an offence of the kind alleged and had not at the time of the alleged offence any reason to suspect that an offence was being committed by him ; and
- (b) where the accused obtained the reproductive material to which the alleged offence relates from some other person, that on demand by or on behalf of the prosecutor the accused gave all the information in his power with respect to the name and address of that other person, and with respect to any relevant document in his possession or power relating to the material and the contract of sale.

(6) Subsection (7) of section 5 of this Act shall apply for the interpretation of this section.

(2) The said Act of 1964 shall have effect subject to the further amendments set out in Schedule 7 to this Act, being miscellaneous minor amendments.

(3) Section 39 of the said Act of 1964 shall have effect as if this section (together with the said Schedule 7) were contained in that Act and had been extended to Northern Ireland by Order in Council under subsection (2) of the said section 39.

Extension of
Agricultural
and Forestry
Associations
Act 1962.
1962 c. 29.
1956 c. 68.

44.—(1) Section 1 of the Agricultural and Forestry Associations Act 1962 (which confers exemptions from Part I of the Restrictive Trade Practices Act 1956 for certain co-operative associations formed for purposes of agriculture or forestry) shall apply to corresponding associations of persons engaged in the business of catching or taking fish or shellfish, and accordingly shall have effect as if—

- (a) references to persons occupying land used for agriculture or forestry or both included references to persons engaged in the business aforesaid ;
- (b) references to produce produced by members of an association on land so occupied and used, and to the production of such produce on such land, included references to fish or shellfish caught or taken by such members, and to the catching or taking of fish or shellfish, in the course of their business.

(2) Without prejudice to the foregoing provision, the said section 1 shall apply to any co-operative association having as its object or primary object to assist its members—

- (a) in the carrying on of the businesses of agriculture or forestry or both on land occupied by them ; or
- (b) in the carrying on of businesses consisting in the catching or taking of fish or shellfish,

whether or not the conditions specified in paragraphs (a) to (c) of subsection (1) of that section are satisfied ; and for the purposes of this subsection “co-operative association” has the meaning assigned by subsection (9) of section 70 of the Finance Act 1965, and references to members of a co-operative association include references to members of any such association which is a member of that association. 1965 c. 25.

(3) The restrictions in respect of which exemption from Part I of the Restrictive Trade Practices Act 1956 is conferred by subsection (2) of the said section 1 shall include restrictions accepted or treated as accepted as mentioned in that subsection in respect of the production of produce, the catching or taking of fish or shellfish, or the supply of produce, fish or shellfish by members of an association to which the section applies. 1956 c. 68.

(4) This section shall be construed as one with the Agricultural and Forestry Associations Act 1962. 1962 c. 29.

45.—(1) For the purposes of the Restrictive Trade Practices Act 1956, the definition of “trade association” in section 6(8) of that Act shall not include, and shall be deemed never to have included, a board within the meaning of this section. Modification of Restrictive Trade Practices Act 1956 in relation to agricultural marketing boards.

(2) Where a board enter into an agreement on or after the commencement date in the exercise only of such powers as are mentioned in subsection (1) of section 20 of the Agricultural Marketing Act 1958 (which section provides, among other things, that certain of a board’s powers with respect to products must be exercised in accordance with any directions given by the Minister for the purpose of safeguarding the public interest) or of such powers as are mentioned in section 36 of that Act (under which a board are empowered, subject to the directions of the Minister, to provide artificial insemination services), Part I of the said Act of 1956 shall not apply to the agreement if— 1958 c. 47.

- (a) the board have served notice of the terms of the agreement on the Minister before entering into it ; and
- (b) either the period of twenty-eight days beginning with the date of service of the board’s notice on the Minister has expired and the Minister has not during that period served notice on the board that he objects to those

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terms for the purposes of this subsection or the Minister has served on the board during that period notice that he does not so object ; and

- (c) the board have furnished a copy of the agreement to the Minister within the period of twenty-eight days beginning with the date on which they entered into it or within such longer period as the Minister may allow in any particular case.

(3) Where a board have entered into an agreement before the commencement date wholly or partly in the exercise of any of the powers mentioned in subsection (2) of this section and either the board served on the Minister, before they entered into the agreement, notice of its terms in pursuance of a requirement to do so contained in a scheme administered by them or the board furnish a copy of the agreement to the Minister within the period of three months beginning with the commencement date, Part I of the said Act of 1956 shall not apply to the agreement—

- (a) subject to paragraph (c) below, as respects the period of fifteen months beginning with the commencement date ;
- (b) if during the said period of fifteen months or that period as previously extended under this paragraph the Minister serves notice on the board extending or further extending that period in relation to the agreement, then, subject to paragraph (c) below, as respects the extended period ;
- (c) if during the said period or extended period the Minister serves notice on the board that he objects to the agreement for the purposes of this subsection, only as respects the period beginning with the commencement date and ending with the date of service of the notice ;
- (d) if during the said period or extended period the Minister serves notice on the board that he does not so object, as respects any period after the commencement date ;

and the said Part I shall, as respects any period before the commencement date, be deemed not to have applied to an agreement to which it does not apply by virtue of this subsection as respects a subsequent period.

(4) Subsections (2) and (3) of this section shall have effect in relation to a Northern Ireland board as if for any reference to the powers mentioned in subsection (2) of this section were there substituted a reference to the powers mentioned in subsection (1) of section 14 of the Agricultural Marketing Act (Northern Ireland) 1964 (which section corresponds to the said section 20).

(5) Where by virtue of any of the provisions of subsections (2) to (4) of this section Part I of the said Act of 1956 does not apply, or does not apply or is deemed not to have applied as respects any period, to an agreement made between a board and a trade association within the meaning of section 6 of that Act, being an agreement as to the terms for other agreements between the board and persons who are members of the association or are represented thereon by such members, the said Part I shall not apply or, as the case may be, shall not apply or shall be deemed not to have applied as respects that period—

- (a) to any such other agreement containing only terms contemplated by the agreement made between the board and the association ;
- (b) to any agreement made between two or more of those persons of which the purpose is confined to promoting the agreements mentioned in paragraph (a) of this subsection or any of them.

(6) Nothing in this section shall be construed as derogating from the powers of the Minister to give directions at any time under the provisions of the said Acts of 1958 and 1964 which are mentioned in subsections (2) and (4) of this section.

(7) In this section—

- “ agreement ” means an agreement within the meaning of Part I of the Restrictive Trade Practices Act 1956 to which, apart from this section, the said Part I applies ; 1956 c. 68.
- “ board ” means a board constituted by a scheme made or having effect as if made under the Agricultural Marketing Act 1958 and includes a Northern Ireland board ; 1958 c. 47.
- “ the commencement date ” means the date of the passing of this Act ;
- “ the Minister ”, except in relation to a Northern Ireland board, has the same meaning as in the said Act of 1958 and, in relation to a Northern Ireland board, has the same meaning as in the Agricultural Marketing Act (Northern Ireland) 1964 ; and 1964 c. 13 (N.I.).
- “ Northern Ireland board ” means a board constituted by a scheme made or having effect as if made under the said Act of 1964 ;

and for the purposes of subsection (2) of this section an agreement shall be treated as entered into by a board in the exercise only of the powers mentioned in that subsection, or that subsection as modified by subsection (4) of this section, notwithstanding that the agreement contains provisions entered into by the board in the exercise of other powers if the Minister is of opinion that those provisions are incidental provisions only.

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Further functions of agricultural wages committees.
1948 c. 47.

46.—(1) The Minister may by regulations—

- (a) provide that the functions under the Agricultural Wages Act 1948 of agricultural wages committees established in pursuance of that Act shall include such further functions as the Minister considers appropriate for the purpose of enabling or requiring those committees to give effect to orders made or which may be made by the Agricultural Wages Board for England and Wales under that Act and (without prejudice to the generality of the foregoing provisions in this paragraph) to determine whether any person is a member of any special class of workers as defined in such an order ;
- (b) make provision with respect to the procedure to be followed in connection with the exercise of the further functions aforesaid and provide that section 15 of that Act (which relates to evidence of resolutions and orders) shall apply with such modifications as the Minister considers appropriate to decisions made in the exercise of those functions.

(2) In this section “ functions ” means powers and duties.

(3) In the application of this section to Scotland, for any reference to the Agricultural Wages Act 1948 and the Agricultural Wages Board for England and Wales there shall be substituted respectively a reference to the Agricultural Wages (Scotland) Act 1949 and the Scottish Agricultural Wages Board.

1949 c. 30.

Further exemptions of transfers of land from control of Rural Development Boards.
1967 c. 22.
1930 c. 44.

47. Section 49 of the Agriculture Act 1967 (under which the transfer of any land in the area of a Rural Development Board requires the consent of the Board) shall not apply to a transfer to or from a river authority or an internal drainage board within the meaning of the Land Drainage Act 1930 ; and accordingly after paragraph (f) of section 50(3) of the said Act of 1967 (which exempts certain transfers from the requirement aforesaid) there shall be inserted the following paragraphs :—

“(g) a river authority (including the Conservators of the River Thames and the Lee Conservancy Catchment Board) ;

(h) an internal drainage board within the meaning of the Land Drainage Act 1930 ”.

Extension of s. 3 of Parks Regulation (Amendment) Act 1926.
1926 c. 36.

48. In section 3 of the Parks Regulation (Amendment) Act 1926 (under which, among other things, the Minister of Agriculture, Fisheries and Food has power to regulate the conduct of persons using the Royal Botanic Gardens at Kew), the second reference to the said Gardens shall include a reference to any

park, garden, recreation ground, open space and other land for the time being vested in or under the control or management of the said Minister.

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49. The proviso to subsection (2) of section 53 of the Agricultural Marketing Act 1958 (which restricts the operation in respect of reserved matters of schemes and regulations made under corresponding legislation of the Parliament of Northern Ireland unless it is certified by the Secretary of State that it is expedient that the schemes or regulations should have full effect as subserving the purposes therein described, being purposes of Great Britain) shall have effect with the omission of the words from "as subserving the purposes of" to "produced or sold by them".

Amendment of s. 53(2) of the Agricultural Marketing Act 1958. 1958 c. 47.

Supplemental

50.—(1) Subject to subsection (7) of section 45 of this Act, in this Act—

Interpretation etc.—general.

"the Minister" means, except in the application of this Act to Scotland, the Minister of Agriculture, Fisheries and Food and, in the application of this Act to Scotland, the Secretary of State;

"the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly; and

"notice" means notice in writing.

(2) It is hereby declared that in this Act any reference to a river authority includes a reference to the Conservators of the River Thames and the Lee Conservancy Catchment Board, and any reference to a river authority area is, in relation to the said Conservators, a reference to the Thames catchment area and, in relation to the said Board, a reference to the Lee catchment area.

(3) Any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment including an enactment in this Act.

(4) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection "director", in relation to a body corporate established by or under any enactment for the purpose of

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carrying on under national ownership any industry or undertaking or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Orders,
regulations
and schemes.

51.—(1) Any power conferred by this Act to make regulations or a scheme or an order (other than an order under section 23(1)(a)) shall be exercisable by statutory instrument.

(2) Any statutory instrument containing an order or regulations made under any provision of this Act, other than an order under section 23(1)(b) and regulations under section 2, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No scheme shall be made under this Act unless a draft of the scheme has been approved by each House of Parliament.

(4) Any order or scheme made under any provision of this Act may be revoked or varied by a subsequent order or scheme made thereunder.

(5) Any order, scheme or regulations under this Act may make different provision for different circumstances; and nothing in any other provision of this Act authorising the making of different provision for such different cases as may be specified in that provision shall be construed as prejudicing the generality of the power conferred by this subsection.

Repeals.

52. The enactments mentioned in Schedule 8 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

Financial
provisions.

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

(a) any expenses incurred by virtue of this Act by any Minister or government department (except the Postmaster General); and

(b) any increase attributable to the provisions of this Act in the sums payable out of such moneys under any other Act;

and any sums received by the Minister or the Ministers by virtue of this Act shall be paid into the Exchequer.

Short title,
commence-
ment and
extent, etc.

54.—(1) This Act may be cited as the Agriculture (Miscellaneous Provisions) Act 1968.

(2) Part I of this Act shall come into operation on the expiration of two months beginning with the date on which this Act is passed.

PART V

(3) This Act, except Part IV and sections 10, 13, 47 and 48, extends to Scotland, and sections 11, 14 and 16 and Part III of this Act extend to Scotland only.

(4) This Part of this Act, except sections 41, 42 and 46 to 48, extends to Northern Ireland; but nothing in this Part of 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 section 45 of this Act or in any scheme under section 38 or section 40 of this Act applying to Northern Ireland.

SCHEDULES

SCHEDULE 1

TRANSITIONAL PROVISIONS RELATING TO PAYMENTS UNDER
S. 9 IN ENGLAND AND WALES

Section 10(7).

1. Where the relevant notice is served on the tenant after the initial date but not later than the commencement date and does not contain such a statement as is mentioned in section 24(2)(a) or (b) of the principal Act or section 10(1)(b) or (c) of this Act, then—

- (a) if an application for consent in respect of the relevant notice is made in pursuance of section 24(1) of the principal Act not later than the commencement date, any such statement as is mentioned in the said section 10(1)(b) which is included in the application shall be treated for the purposes of section 10 of this Act as included also in the relevant notice ; and
- (b) if, in a case not falling within sub-paragraph (a) above, the landlord serves on the tenant, before or after the commencement date but before the expiration of the period of three months beginning with that date, a notice containing such a statement as is mentioned in the said section 10(1)(b) or (c) and indicating that the relevant notice is to be treated as having always included that statement, the relevant notice shall be so treated for the purposes of the said section 10.

2. Where either—

- (a) the relevant notice is served on the tenant not later than the commencement date and contains such a statement as is mentioned in the said section 10(1)(b) or (c) ; or
- (b) a notice is served on the tenant under paragraph 1(b) of this Schedule,

and in either case no counter-notice in respect of the relevant notice in question has been served in pursuance of section 24(1) of the principal Act and the period during which such a counter-notice may be served has expired, the tenant may, within the period of three months beginning with the commencement date or, where the notice under paragraph 1(b) of this Schedule is served on a later date, beginning with the later date, make an application to the tribunal for a determination that the tribunal are satisfied that the relevant notice was given in order that the land in question may be used otherwise than for agriculture.

3. Where the tribunal have, on or before the commencement date, given a decision consenting under section 24(1) of the principal Act to the operation of the relevant notice and either—

- (a) the reason given by the tribunal for their decision is that they are satisfied as to the matter mentioned in section 25(1)(b) of that Act ; or

- (b) the reasons so given include that reason but not the reason that they are satisfied as to the matter mentioned in section 25(1)(e) of that Act,

SCH. 1

the tenant may, at any time before the expiration of the period of three months beginning with the commencement date, make an application to the tribunal for a determination that the reasons for their decision would have included the reason that they were satisfied as to the matter mentioned in the said section 25(1)(e) if that matter had been specified in the application for consent.

4. Where the tribunal make a determination under paragraph 2 or paragraph 3 of this Schedule, section 10(1) of this Act shall not apply in relation to the relevant notice in question.

5. In this Schedule—

“the commencement date” means the date of the passing of this Act; and

“the relevant notice” and “the tribunal” have the same meanings as in section 10 of this Act.

SCHEDULE 2

Section 11(9).

TRANSITIONAL PROVISIONS RELATING TO PAYMENTS UNDER S. 9 IN SCOTLAND

1. Where the relevant notice (not being a notice given in pursuance of section 6(3) of the Agriculture Act 1958) is served on the tenant after the initial date but not later than the commencement date and does not contain such a statement as is mentioned in section 25(2)(c) of the principal Scottish Act or section 11(1)(a) or (b) of this Act, then—

(a) if an application for consent in respect of the relevant notice is made in pursuance of section 25(1) of the principal Scottish Act not later than the commencement date, any such statement as is mentioned in the said section 11(1)(a) which is included in the application shall be treated for the purposes of section 11 of this Act as included also in the relevant notice; and

(b) if, in a case not falling within sub-paragraph (a) above, the landlord serves on the tenant, before or after the commencement date but before the expiration of the period of three months beginning with that date, a notice containing such a statement as is mentioned in the said section 11(1)(a) or (b) and indicating that the relevant notice is to be treated as having always included that statement, the relevant notice shall be so treated for the purposes of the said section 11.

2. Where the relevant notice is given in pursuance of section 6(3) of the Agriculture Act 1958, is served on the tenant after the initial date but not later than the commencement date and does not contain such a statement as is mentioned in section 11(7)(b) of this Act, then,

SCH. 2

if the landlord serves on the tenant, before or after the commencement date but before the expiration of the period of three months beginning with that date, a notice containing such a statement as is mentioned in the said section 11(7)(b) and indicating that the relevant notice is to be treated as having always included that statement, the relevant notice shall be so treated for the purposes of section 11 of this Act:

Provided that this paragraph shall not have effect where the relevant notice is a notice to which, apart from the provisions of section 19 of this Act, the said section 6(3) would apply.

3. Where the relevant notice is a notice to which, apart from the provisions of the said section 19, the said section 6(3) would apply, and the landlord in a notification to the tenant under section 19(2) of this Act specifies a matter set out in section 26(1) of the principal Scottish Act, then—

- (a) in the case of a matter set out in paragraph (a), (b) or (c) of the said section 26(1), the relevant notice shall be treated for the purposes of section 11(1)(a) of this Act as if it had always contained a statement of that matter as a ground on which the carrying out of the purposes for which the landlord proposes to terminate the tenancy is desirable;
- (b) in the case of the matter set out in paragraph (d) of the said section 26(1), the relevant notice shall be treated for the purposes of section 11(1)(b) of this Act as if it had always contained a statement that the landlord would suffer hardship unless the notice had effect.

4. Where either—

- (a) the relevant notice is served on the tenant not later than the commencement date and contains such a statement as is mentioned in the said section 11(1)(a) or (b); or
- (b) a notice is served on the tenant under paragraph 1(b) of this Schedule,

and in either case no counter-notice in respect of the relevant notice in question has been served in pursuance of section 25(1) of the principal Scottish Act and the period during which such a counter-notice may be served has expired, the tenant may, within the period of three months beginning with the commencement date or, where the notice under paragraph 1(b) of this Schedule is served on a later date, beginning with the later date, make an application to the court for a determination that the court are satisfied that the relevant notice was given in order that the land in question may be used otherwise than for agriculture.

5. Where the court have, on or before the commencement date, given a decision consenting under section 25(1) of the principal Scottish Act to the operation of the relevant notice and either—

- (a) the reason given by the court for their decision is that they are satisfied as to the matter mentioned in section 26(1)(b) of that Act; or

- (b) the reasons so given include that reason but not the reason that they are satisfied as to the matter mentioned in section 26(1)(e) of that Act,

SCH. 2

the tenant may, at any time before the expiration of the period of three months beginning with the commencement date, make an application to the court for a determination that the reasons for their decision would have included the reason that they were satisfied as to the matter mentioned in the said section 26(1)(e) if that matter had been specified in the application for consent.

6. Where the court make a determination under paragraph 4 or paragraph 5 of this Schedule, section 11(1) of this Act shall not apply in relation to the relevant notice in question.

7. In this Schedule—

“the commencement date” means the date of the passing of this Act; and

“the court” and “the relevant notice” have the same meanings as in section 11 of this Act.

SCHEDULE 3

Section 13(3).

SUPPLEMENTARY PROVISIONS WITH RESPECT TO PAYMENTS UNDER S. 12(1) IN ENGLAND AND WALES

1. Subject to paragraph 4 of this Schedule, any dispute with respect to any sum which may be or become payable by virtue of section 12(1) of this Act shall be referred to and determined by the Lands Tribunal.

2. If in any case the sum to be paid by virtue of the said section 12(1) to the tenant of an agricultural holding by an acquiring authority would, apart from this paragraph and paragraph 3 of this Schedule, fall to be ascertained in pursuance of section 9(2) of this Act by reference to the rent of the holding at a rate which was not determined by arbitration under section 8 or section 9 of the principal Act and which the authority consider is unduly high, the authority may make an application to the Lands Tribunal for the rent to be considered by the tribunal.

3. Where, on an application under paragraph 2 above, the tribunal are satisfied that—

- (a) the rent to which the application relates is not substantially higher than the rent which in their opinion would be determined for the holding in question on a reference to arbitration duly made in pursuance of section 8 of the principal Act on the date of the application (hereafter in this paragraph referred to as “the appropriate rent”); or
- (b) the rent to which the application relates is substantially higher than the appropriate rent but was not fixed by the parties to the relevant contract of tenancy with a view to increasing the amount of any compensation payable, or of any sum to be paid by virtue of the said section 12(1), in

2 D *

SCH. 3

consequence of the compulsory acquisition or taking of possession of any land included in the holding.

they shall dismiss the application ; and if the tribunal do not dismiss the application in pursuance of the foregoing provisions of this paragraph they shall determine that, in the case to which the application relates, the sum to be paid by virtue of the said section 12(1) shall be ascertained in pursuance of the said section 9(2) by reference to the appropriate rent instead of by reference to the rent to which the application relates.

4. The enactments mentioned in paragraph 5 of this Schedule shall, subject to any necessary modifications, have effect in their application to such an acquiring of an interest or taking of possession as is mentioned in subsection (1) of section 12 of this Act (hereafter in this paragraph referred to as "the relevant event")—

- (a) in so far as those enactments make provision for the doing, before the relevant event, of any thing connected with compensation (including in particular provision for determining the amount of or the liability to pay compensation or for the payment of it into court or otherwise), as if references to compensation, except compensation for damage or injurious affection, included references to any sum which will become payable by virtue of the said subsection (1) in consequence of the relevant event ; and
- (b) subject to sub-paragraph (a) above, as if references to compensation (except as aforesaid) included references to sums payable or, as the context may require, to sums paid by virtue of the said subsection (1) in consequence of the relevant event.

5. The enactments aforesaid are—

1961 c. 33.
1965 c. 56.

- (a) Part I and section 32 of the Land Compensation Act 1961 ;
- (b) the following provisions of the Compulsory Purchase Act 1965, that is to say, sections 6, 9, 11, 12, 20(4) and (5), 22 (except subsection (4)) and 26 ; in Schedule 1, paragraphs 6 to 8 and 10 ; Schedule 2 and Schedule 3 ;
- (c) any provision of the Lands Clauses Acts or of any other enactment or any instrument having effect by virtue of an enactment, being a provision corresponding to a provision mentioned in sub-paragraph (b) of this paragraph.

Section 14(3).

SCHEDULE 4

SUPPLEMENTARY PROVISIONS WITH RESPECT TO PAYMENTS UNDER S. 12(1) IN SCOTLAND

1. Subject to paragraph 4 of this Schedule, any dispute with respect to any sum which may be or become payable by virtue of section 12(1) of this Act shall be referred to and determined by the Lands Tribunal for Scotland.

SCH. 4

2. If in any case the sum to be paid by virtue of the said section 12(1) to the tenant of an agricultural holding by an acquiring authority would, apart from this paragraph and paragraph 3 of this Schedule, fall to be ascertained in pursuance of section 9(2) of this Act by reference to the rent of the holding at a rate which was not determined by arbitration under section 7 or section 8, or by the Scottish Land Court in pursuance of section 78, of the principal Scottish Act and which the authority consider is unduly high, the authority may make an application to the Lands Tribunal for Scotland for the rent to be considered by the tribunal.

3. Where, on an application under paragraph 2 above, the tribunal are satisfied that—

- (a) the rent to which the application relates is not substantially higher than the rent which in their opinion would be determined for the holding in question on a reference to arbitration duly made in pursuance of section 7 of the principal Scottish Act (hereafter in this paragraph referred to as “the appropriate rent”); or
- (b) the rent to which the application relates is substantially higher than the appropriate rent but was not fixed by the parties to the relevant lease with a view to increasing the amount of any compensation payable, or of any sum to be paid by virtue of the said section 12(1), in consequence of the compulsory acquisition or taking of possession of any land included in the holding,

they shall dismiss the application; and if the tribunal do not dismiss the application in pursuance of the foregoing provisions of this paragraph they shall determine that, in the case to which the application relates, the sum to be paid by virtue of the said section 12(1) shall be ascertained in pursuance of the said section 9(2) by reference to the appropriate rent instead of by reference to the rent to which the application relates.

For the purposes of sub-paragraph (a) of this paragraph, section 7(1) of the principal Scottish Act shall have effect as if for the reference to the next ensuing day there mentioned there were substituted a reference to the date of the application mentioned in the said sub-paragraph (a).

4. The enactments mentioned in paragraph 5 of this Schedule shall, subject to any necessary modifications, have effect in their application to such an acquiring of an interest or taking of possession as is mentioned in subsection (1) of section 12 of this Act (hereafter in this paragraph referred to as “the relevant event”)—

- (a) in so far as those enactments make provision for the doing, before the relevant event, of any thing connected with compensation (including in particular provision for determining the amount of or the liability to pay compensation or for the deposit of it in a Scottish bank or otherwise), as if references to compensation, except compensation for damage or injurious affection, included references to any sum which will become payable by virtue of the said subsection (1) in consequence of the relevant event; and

SCH. 4

(b) subject to sub-paragraph (a) above, as if references to compensation (except as aforesaid) included references to sums payable or, as the context may require, to sums paid by virtue of the said subsection (1) in consequence of the relevant event.

5. The enactments aforesaid are—

1845 c. 19.

(a) the following provisions of the Lands Clauses (Scotland) Act 1845, that is to say, sections 56 to 60, 62, 63 to 65, 67 to 70, 72, 74 to 79, 83 to 87, 114, 115 and 117 ;

1947 c. 42.

(b) paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 ;

1963 c. 51.

(c) Parts I and II and section 40 of the Land Compensation (Scotland) Act 1963 ;

1968 c. 16.

(d) paragraph 4 of Schedule 6 to the New Towns (Scotland) Act 1968 ;

(e) any provision in any local or private Act, in any instrument having effect by virtue of an enactment or in any order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, corresponding to a provision mentioned in sub-paragraph (a), (b) or (d) of this paragraph.

1949 c. 42.

6. Until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, this Schedule shall have effect as if for any reference to the Lands Tribunal for Scotland there were substituted a reference to an official arbiter appointed under Part I of the Land Compensation (Scotland) Act 1963 ; and sections 3 to 5 of that Act shall apply, subject to any necessary modifications, in relation to the determination of any question under this Schedule by an arbiter so appointed.

Section 16.

SCHEDULE 5

MODIFICATIONS OF PART II FOR STATUTORY SMALL TENANTS IN SCOTLAND

1931 c. 44.

1. In section 9(3), at the end there shall be added the words “ and the reference to compensation for disturbance becoming payable to the tenant of an agricultural holding under the principal Scottish Act shall include a reference to the like compensation becoming payable to a statutory small tenant under section 13 of the Small Landholders and Agricultural Holdings (Scotland) Act 1931 ”.

2. In section 11(5), after the words “ Scottish Act ”, there shall be inserted the words “ and that Act as read with section 32 of the Act of 1911 ” and for the words “ that Act ” there shall be substituted the words “ the principal Scottish Act ”.

3. In section 11(6), in paragraph (b) after the word “ lease ”, there shall be inserted the words “ , or of the holding or part of the holding of a statutory small tenant on being so authorised by the Scottish Land Court under section 32(15) of the Act of 1911, ”.

4. In section 15(1), at the end there shall be added the following subsection— SCH. 5

“(1A) Except where compensation assessed in accordance with this subsection would be less than if this subsection were disregarded, in assessing the compensation payable by an acquiring authority to a statutory small tenant as defined in the Act of 1911 in connection with such an acquiring of an interest or taking of possession as is mentioned in section 12(1) of this Act, any authorisation of resumption of the holding or part thereof by the Scottish Land Court under section 32(15) of the Act of 1911 for any purpose (not being an agricultural purpose) specified therein shall—

- (a) in the case of an acquisition, be treated as if it became operative only on the expiration of twelve months from the end of the year of the tenancy current when notice to treat in respect of the acquisition was served or treated as served on the tenant ; and
- (b) in the case of a taking of possession, be disregarded.”.

5. In section 15(3), after the word “ section ” there shall be inserted the words “ or the landlord of the holding of a statutory small tenant resumes the holding or part thereof on being so authorised by the Scottish Land Court under section 32(15) of the Act of 1911 ”.

6. In Schedule 4, in paragraph 2 after the words “ Scottish Act ”, there shall be inserted the words “ or in the case of a statutory small tenant was not fixed by the Scottish Land Court in pursuance of subsections (7) and (8) of section 32 of the Act of 1911 ”.

7. In Schedule 4, in paragraph 3(a) after the word “ Act ” there shall be inserted the words “ or in the case of a statutory small tenancy, the equitable rent which in their opinion would be fixed by the Scottish Land Court in pursuance of the said subsections (7) and (8) ”.

8. In this Schedule, “ the Act of 1911 ” means the Small Land-holders (Scotland) Act 1911. 1911 c. 49.

SCHEDULE 6

Section 27(1).

CONSEQUENTIAL MODIFICATIONS OF PART I OF LAND DRAINAGE ACT 1961

1961 c. 48.

1. The following provisions of the principal Act shall cease to have effect, that is to say, section 1(2) and (3), section 2, section 4(2) and (4), section 7, section 8(1)(c)(ii) and (2), in section 8(3) the words “ or of the said subsection (2) ”, section 9(4), in section 10(3) the words “ section 7 or ” and section 14.

2. For references to chargeable hereditaments in Part I of the principal Act, except section 12, there shall be substituted references to chargeable land, and for the references to a chargeable hereditament in that section and for other references to hereditaments in that Part there shall be substituted references to land.

SCH. 6

3. Without prejudice to the operation of section 29(2) of this Act, the references to Part I of the principal Act in sections 3(1), 13 and 16 of that Act shall include references to the charges provisions.

4. In section 4(3) of the principal Act for references to section 4(2) of that Act there shall be substituted references to section 23(1) of this Act.

5. In section 16 of the principal Act for the definition of "chargeable hereditament" there shall be substituted the words "'chargeable land' has the meaning assigned to it by section 29(1) of the Agriculture (Miscellaneous Provisions) Act 1968".

6. In this Schedule expressions defined by sections 21(2) and 29(1) of this Act have the same meanings as in those provisions.

Section 43(2).

SCHEDULE 7

1964 c. 14.

MINOR AMENDMENTS OF PLANT VARIETIES AND SEEDS ACT 1964

In section 1, in subsection (4), at the end there shall be added the words "or any decision preliminary to the determination of such an application as to the conditions laid down in section 2 of this Act".

In section 20, subsection (5) shall be omitted.

In section 21, in subsection (1), the words "but which is not in the Index" shall be omitted, and at the end there shall be added the words "but is not given in that section of the Index or is not so given for that variety".

In section 22, in subsection (6), after the words "for the purpose" there shall be inserted the words "of increasing the stock of the person who acquired it, or for the purpose".

In section 23, for the words "any of the three last foregoing sections", wherever those words occur, there shall be substituted the words "section 21 or section 22 of this Act".

After section 23, there shall be inserted the following section:—

Co-ordination of applications under sections 20 and 22. 23A. The power of the Ministers to make regulations for the purposes of sections 20 and 22 of this Act shall include power to make such provision as they consider appropriate for requiring the making of applications under each of these sections in respect of any plant variety, for synchronising or co-ordinating such applications, and for regulating the commencement of trials pursuant thereto.

In Schedule 1, in paragraph 1(3), for the words "the applicant from making" there shall be substituted the words "the making of".

SCH. 7

In Schedule 1, in paragraph 1(5), for the words "shall not give" there shall be substituted the words "may refuse", and at the end there shall be added the words "or that the rule set out in paragraph 2 of Part II of Schedule 2 to this Act is not complied with in the case of the variety".

In Schedule 1, in paragraph 3(2), at the end there shall be added the words "not being a decision given on the application of the applicant in whose favour the direction was made".

In Schedule 1, in paragraph 4, after sub-paragraph (1) there shall be inserted the following sub-paragraph—

(1A) An appeal shall lie to the Tribunal against a decision under this paragraph to terminate the period for which plant breeders' rights are exercisable.

In Part II of Schedule 2, in paragraph 2(5), the words "which having been", and the words from "has been found" to the end, shall be omitted.

SCHEDULE 8
REPEALS

Section 52.

| Chapter | Short title | Extent of repeal |
|-------------|--|---|
| 1944 c. 28. | The Agriculture (Miscellaneous Provisions) Act 1944. | Section 5, except in its application to Scotland. |
| 1958 c. 47. | The Agricultural Marketing Act 1958. | In section 53(2), the words from "as subserving" to "them". |
| 1961 c. 48. | The Land Drainage Act 1961. | Sections 1(2) and (3), 2 and 4(2) and (4). In section 6(2), the words from "affixed" to "and". Section 7. In section 8, sub-paragraph (ii) of subsection (1)(c), subsection (2), and in subsection (3) the words "or of the said subsection (2)" and the words "owner and". Section 9(4). In section 10(3), the words "section 7 or". Section 14. Section 22(3). |
| 1963 c. 25. | The Finance Act 1963. | In Schedule 12, sub-paragraphs (1) to (6) of paragraph 24. |
| 1964 c. 14. | The Plant Varieties and Seeds Act 1964. | Section 20(5). In section 21(1), the words "but which is not in the Index". In Part II of Schedule 2, in paragraph 2(5), the words "which having been" and the words from "has been found" onwards. |



Water Resources Act 1968

1968 CHAPTER 35

An Act to amend section 27 of the Water Resources Act 1963 and for purposes connected therewith.

[3rd July 1968]

BE IT ENACTED by the Queen'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 Water
Resources
Act 1963,
s. 27.

1963 c. 38.

1.—(1) In section 27 of the Water Resources Act 1963 (which relates to the persons entitled to apply for a licence under that Act to abstract water), the following subsection shall be substituted for subsection (3):—

“(3) In relation to abstractions from underground strata, a person shall be entitled to make such an application if either—

- (a) he is the occupier of land consisting of or comprising those underground strata, or
- (b) in a case where water contained in an excavation into underground strata is, by virtue of section 2(2)(b) of this Act, to be treated as water contained in those underground strata, he satisfies the river authority that he has, or at the time when the proposed licence is to take effect will have, a right of access to land consisting of or comprising those underground strata.”.

(2) In subsection (4) of that section, after the words “land of any description”, there shall be inserted “(a)”, and at the end of that subsection there shall be inserted the words “and

- (b) without prejudice to the application of the preceding paragraph to a person who is or can be authorised to acquire land compulsorily, also includes any person who satisfies the river authority that by virtue of any enactment (in this section

referred to as 'the relevant enactment') the compulsory acquisition by that person of land of that description either has been authorised or can be authorised and has been initiated.

(5) In subsection (4)(b) of this section the reference to initiating the compulsory acquisition of land by a person is a reference to—

- (a) the submission to the appropriate Minister of a draft of an order which, if made by that Minister in the form of the draft, will authorise that person to acquire that land compulsorily, with or without other land, or
- (b) the submission to the appropriate Minister of an order which, if confirmed by that Minister as submitted, will authorise that person to acquire that land compulsorily, with or without other land,

and in this section 'the appropriate Minister', in relation to a person, means the Minister who, in accordance with the relevant enactment, is empowered to authorise that person to acquire land compulsorily, and any reference to an enactment includes a reference to an enactment contained in this Act."

(3) Where any statutory provision (including a provision contained in the said Act of 1963) refers to section 27 of that Act, or refers (in whatever terms) to provisions of that Act which include that section, the reference, in so far as it is applicable to that section, shall be construed as a reference to that section as amended by this section.

(4) The amendment made by subsection (2) of this section, and any modification of a statutory provision made by subsection (3) of this section, in so far as that modification corresponds to that amendment, shall have effect for enabling applications for licences under the said Act of 1963 (or under that Act as applied by any statutory provision) to be made at any time after the passing of this Act, whether the compulsory acquisition in question is authorised or initiated (as mentioned in that amendment) after, or has been so authorised or initiated before, the passing of this Act.

(5) In this section "statutory provision" has the meaning assigned to it by section 135(1) of the said Act of 1963.

2.—(1) This Act may be cited as the Water Resources Act 1968 ; and the Water Resources Act 1963 and this Act may be cited together as the Water Resources Acts 1963 and 1968.

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

Short title,
citation and
extent.
1963 c. 38.



Maintenance Orders Act 1968

1968 CHAPTER 36

An Act to amend the enactments relating to matrimonial, guardianship and affiliation proceedings so far as they limit the weekly rate of the maintenance payments which may be ordered by magistrates' courts.

[3rd July 1968]

BE IT ENACTED by the Queen'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:—

Increase of maximum payments for children.

1. The enactments described in the Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being amendments removing the limits of fifty shillings and seven pounds ten shillings imposed by those enactments upon the weekly rate of the payments for the maintenance of a child, and for the maintenance of a party to a marriage, which may be required by order of a magistrates' court thereunder.

Supplementary.

2. Any order made by a magistrates' court before the date of the commencement of this Act may be varied so as to include, from the date of the variation, provision for the payment of such increased sums as would have been lawful if the order had been made after the first mentioned date.

Short title, extent, commencement and repeal.

3.—(1) This Act may be cited as the Maintenance Orders Act 1968.

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

(3) This Act shall come into force at the expiration of the period of one month beginning with the day on which it is passed.

1960 c. 48.

(4) Section 15 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 is hereby repealed.

SCHEDULE

Section 1.

ENACTMENTS AMENDED

- The Guardianship of Infants Act 1925.
(15 & 16 Geo. 5. c. 45.) In section 7, in subsection (1), paragraph (c) of the proviso shall be omitted.
- The Affiliation Proceedings Act 1957.
(5 & 6 Eliz. 2. c. 55.) In section 4, in paragraph (a) of subsection (2), the words "not exceeding fifty shillings a week" shall be omitted.
- The Maintenance Orders Act 1958.
(6 & 7 Eliz. 2. c. 39.) In section 4, in subsection (3), for the words from "whichever" to the end there shall be substituted the words "the rate of payments specified by the order as made or last varied by the original court".
- The Matrimonial Proceedings (Magistrates' Courts) Act 1960.
(8 & 9 Eliz. 2. c. 48.) In section 2, in paragraphs (b) and (c) of subsection (1), the words "not exceeding seven pounds ten shillings" shall be omitted; and in paragraph (h) of that subsection for the words from "payments by way of a weekly sum" to "fifty shillings" there shall be substituted the words "weekly payments".
- The Matrimonial Causes Act 1965.
(1965 c. 72.) In section 24, in paragraph (a) of subsection (2), the words "at a rate not exceeding seven pounds ten shillings a week" and the words "at a rate not exceeding fifty shillings a week in respect of each such child" shall be omitted; and in paragraph (b) of that subsection for the words from "at rates" to "rate aforesaid" there shall be substituted the words "an order increasing".



Education (No. 2) Act 1968

1968 CHAPTER 37

An Act to make further provision for the government and conduct of colleges of education and other institutions of further education maintained by local education authorities, and of special schools so maintained.

[3rd July 1968]

BE IT ENACTED by the Queen'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:—

Government and conduct of colleges of education and other institutions providing further education.
1944 c. 31.

1.—(1) For every institution maintained by a local education authority, being either—

- (a) a college for the training of teachers (in this section referred to as a college of education); or
- (b) an institution, other than a college of education, providing full-time education pursuant to a scheme of further education approved under section 42 of the Education Act 1944,

there shall be an instrument (to be known as an instrument of government) providing for the constitution of a body of governors of the institution.

(2) The instrument of government for any such institution shall be made, in the case of a college of education, by order of the local education authority with the approval of the Secretary of State, and in any other case by order of the local education authority, and the body of governors to be constituted thereunder shall consist of such number of persons, appointed in such manner, as the local education authority or, in the case of a college of education, that authority with the approval of the Secretary of State may determine.

(3) Every such institution shall be conducted in accordance with articles of government, to be made by order of the local education authority with the approval of the Secretary of State; and those articles shall determine the functions to be exercised respectively, in relation to the institution, by the local education authority, the body of governors, the principal, and the academic board, if any.

(4) A local education authority may, with the approval of the Secretary of State, make an arrangement for the constitution of a single governing body for any two or more such institutions maintained by them as are mentioned in paragraph (b) of subsection (1) of this section; and the governing body constituted in pursuance of any such arrangement shall consist of such number of persons, appointed in such manner, as the local education authority may determine.

2.—(1) For every special school maintained by a local education authority there shall be an instrument (to be known as an instrument of government) providing for the constitution of a body of governors of the school. Government and conduct of special schools.

(2) The instrument of government for any such school shall be made by order of the local education authority, and the body of governors to be constituted thereunder shall consist of such number of persons, appointed in such manner, as that authority may determine.

(3) Every such school shall be conducted in accordance with articles of government to be made by order of the local education authority.

(4) A local education authority may make an arrangement for the constitution of a single governing body for any two or more special schools maintained by them; and the governing body constituted in pursuance of any such arrangement shall consist of such number of persons, appointed in such manner, as the local education authority may determine.

(5) For the purposes of section 21 of the Education Act 1944 and Schedule 4 to that Act (proceedings of managers and governors of county and voluntary schools) and of section 24 of that Act (appointment and dismissal of teachers in such schools) a special school maintained by a local education authority shall be treated as if it were a county school. 1944 c. 31.

3.—(1) The articles of government made under this Act for any establishment may regulate the constitution and functions of committees of the body of governors or of any academic board of that establishment, and of sub-committees of such committees. Supplemental.

(2) Every arrangement made under subsection (4) of section 1 or subsection (4) of section 2 of this Act may be terminated at any time by the local education authority by which it was made ; and while such an arrangement is in force with respect to any establishments—

(a) the foregoing provisions of this Act as to the constitution of the body of governors shall not apply to those establishments ; and

(b) for the purposes of any enactment the governing body constituted in accordance with the arrangement shall be deemed to be the body of governors of each of those establishments, and references to a governor in any enactment shall, in relation to each of those establishments, be construed accordingly.

1944 c. 31.

(3) The following provisions of the Education Act 1944, that is to say—

(a) subsection (1) of section 67 (determination of disputes between local education authorities and managers or governors of schools) ;

(b) section 68 (power to prevent unreasonable exercise of functions by local education authorities or by managers or governors of county or voluntary schools) ;

(c) section 99 (powers of Secretary of State in default of local education authorities or managers or governors of county or voluntary schools),

shall apply in relation to establishments to which this Act applies and governors of those establishments as they apply in relation to county schools and governors of county schools.

(4) References in this Act to provisions of the Education Act 1944 are references thereto as amended by or under any subsequent enactment.

Commence-
ment.

4.—(1) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint ; and different days may be appointed under this section for the purposes of different classes of establishments.

1889 c. 63.

(2) Without prejudice to section 37 of the Interpretation Act 1889, any instrument of government or articles of government to be made under this Act for any establishment and any arrangement under this Act for the constitution of a single governing body for two or more establishments may be made so as to come into force before the date on which this Act comes into force in relation to establishments of that class, and any functions to be exercised under that instrument or arrangement or those articles may be exercised accordingly.

5.—(1) This Act may be cited as the Education (No. 2) Act 1968, and shall be included among the Acts which may be cited together as the Education Acts 1944 to 1968.

Short title,
citation,
construction
and extent.

(2) This Act shall be construed as one with the Education Acts 1944 to 1968.

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



Sale of Venison (Scotland) Act 1968

1968 CHAPTER 38

An Act to make provision for the registration of dealers in venison, for the keeping of records by such dealers; and for matters in connection therewith.

[3rd July 1968]

BE IT ENACTED by the Queen'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:—

Registration
of venison
dealers etc.

1.—(1) Subject to the provisions of this Act,

- (a) every local authority shall maintain a register of persons carrying on business in their area as dealers in venison; and
- (b) after the expiry of twelve months from the passing of this Act no person shall sell (whether by wholesale or retail) or offer or expose for sale or have in his possession for sale at any premises in the area of a local authority any venison unless he is entered for the time being in accordance with the provisions of this Act in the register maintained by the authority under this section:

Provided that this subsection shall not apply to the sale, offer or exposure for sale by any person to a registered venison dealer of the carcase or part of the carcase of a deer lawfully killed or taken.

(2) Every local authority shall, on application being made to them for that purpose by any person carrying on or proposing to carry on business in their area as a dealer in venison and on payment of a fee of ten shillings, or such other fee as may be

prescribed, register that person as a dealer in venison and issue to him a certificate of registration.

(3) Every local authority by whom certificates of registration are issued under this section shall, as soon as may be after the first day of January in each year, make a return to the Red Deer Commission in the prescribed form showing the names and addresses of the persons who on that day were entered in the register maintained by them under this section as dealers in venison.

(4) Any person who contravenes any of the provisions of subsection (1)(b) of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding £20.

2.—(1) Every registered venison dealer shall keep or cause to be kept a book wherein shall be entered records in the prescribed form, of all purchases and receipts of venison by him, and shall enter or cause to be entered in such book forthwith the prescribed particulars of such purchases and receipts, which shall include where possible particulars as to the sex and species of deer, but which shall not include particulars as to price.

Registered venison dealers to keep records.

(2) Any person authorised in writing in that behalf by the Secretary of State or by the Red Deer Commission and showing his written authority when so requested may inspect any book kept in pursuance of this section; and it shall be the duty of the dealer and of every person keeping such book to produce for inspection by such authorised person such book and also all venison on the premises, together with all invoices, consignment notes, receipts and other documents (including copies thereof where the originals are not available) which may be required to verify any entry in such book, and to allow such authorised person to take copies of such book or documents or extracts therefrom.

(3) Any book kept by a person in pursuance of subsection (1) of this section shall be kept by him until the end of the period of three years beginning with the day on which the last entry was made in the book and any such documents as are mentioned in the last foregoing subsection shall be kept for a period of three years beginning with the date of the entry to which they refer.

(4) Any registered venison dealer who fails to comply with any provision of this section, and any person who obstructs any person entitled under this section to inspect any book or document in the making of such inspection, or who knowingly

or recklessly makes or causes to be made in such book any entry which is false or misleading in any material particular, shall be guilty of an offence under this Act and shall be liable on summary conviction to a fine not exceeding £20.

Interpretation. 3. For the purposes of this Act unless the context otherwise requires—

“ deer ” means deer of any species;

“ local authority ” means the council of any county or any large burgh and in this Act a reference to a county council shall be construed, in relation to counties combined for the purposes mentioned in section 118(1) of the Local Government (Scotland) Act 1947, as a reference to the joint county council;

1947 c. 43.

“ prescribed ” means prescribed by regulations made by statutory instrument by the Secretary of State subject to annulment in pursuance of a resolution of either House of Parliament;

“ registered venison dealer ” means a person who is registered in pursuance of section 1 of this Act; and

“ venison ” means the carcase or any part of the carcase of a deer but does not include venison packed, canned or processed for sale or prepared for consumption at a meal.

Short title
and extent.

4. This Act may be cited as the Sale of Venison (Scotland) Act 1968 and shall extend to Scotland only.



Gas and Electricity Act 1968

1968 CHAPTER 39

An Act to increase the statutory limits on the amounts outstanding in respect of borrowings by the Gas Council and Area Gas Boards; to provide for the borrowing by the Electricity Council, the Scottish Electricity Boards and the Gas Council of money in foreign currency; to enable the said Councils and Boards and other electricity authorities to furnish overseas aid; to increase the number of members of the Gas Council; and for connected purposes.

[3rd July 1968]

BE IT ENACTED by the Queen'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) In section 42(3) of the Gas Act 1948 (which limits the aggregate of the amounts outstanding in respect of any loans raised by the Gas Council or any Area Gas Board) for the words “£900 million or such greater sum, not exceeding £1,200 million, as the Minister may by order specify”, there shall be substituted the words

Extension of borrowing powers of Gas Council and Area Gas Boards.

1948 c. 67.

“£1,600 million, or such greater sum, not exceeding £2,400 million, as the Minister may by order specify”.

(2) No order shall be made under the said section 42(3) as amended by this section unless a draft of the order has been laid before the Commons House of Parliament and has been approved by a resolution of that House; and so much of section 71(3) of the Gas Act 1948 as provides that orders under that Act shall be subject to annulment in pursuance of a resolution of either House of Parliament shall not apply to an order under the said section 42(3).

(3) In consequence of subsection (1) above—

1965 c. 60.

(a) the Gas (Borrowing Powers) Act 1965 shall cease to have effect, and

1963 c. 59.

(b) in section 2(2) of the Electricity and Gas Act 1963 (which specifies enactments which limit the amount of the Government advances authorised to be made to the Gas Council and other bodies under that section) for the words “or the Gas (Borrowing Powers) Act 1965”, there shall be substituted the words “or the Gas and Electricity Act 1968”.

Power of
Electricity
Council to
borrow foreign
currency by
issue of
securities.

1957 c. 48.

2.—(1) Subject to the provisions of this section, the Electricity Council may borrow, from such persons and on such terms as the Minister may, with the approval of the Treasury, from time to time specify, any sums of foreign currency by the issue of stock, bonds, or other securities under this section for all or any of the purposes mentioned in section 15(2) of the Electricity Act 1957 and the redemption of securities previously issued under this section, and they may create and issue securities required for the purpose of borrowing money in manner aforesaid.

(2) The amount outstanding in respect of the principal of any securities issued under this section shall be included in the aggregate of the amounts outstanding in respect of loans raised by the Electricity Council and Electricity Boards in England and Wales which is subject to the limit imposed by section 15(5) of the Electricity Act 1957; but this subsection shall not prevent the Electricity Council from borrowing in excess of the said limit for the purpose of redeeming any securities issued under this section which they are required or entitled to redeem.

(3) Section 17 (Treasury guarantees), 18(1) to (3) (estimates of Boards' requirements and allocations to them of liabilities in respect of British Electricity Stock) and 19 (central guarantee fund) of the Electricity Act 1957 shall have effect as if references to British Electricity Stock included references to securities issued under this section.

(4) The prohibition contained in subsection (6) of section 15 of the Electricity Act 1957 of borrowing except in accordance with the provisions of that section shall not apply to borrowing under this section.

(5) Nothing in this section shall be taken as exempting the Electricity Council from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946 or from the provisions of the Exchange Control Act 1947.

1946 c. 58.

1947 c. 14.

3.—(1) Subject to the provisions of this section, the Scottish Electricity Boards may borrow, from such persons and on such terms as the Secretary of State may, with the approval of the Treasury, from time to time specify, any sums of foreign currency by the issue of stock, bonds or other securities under this section for all or any of the purposes mentioned in section 12(2) of the Hydro-Electric Development (Scotland) Act 1943 and the redemption of securities previously issued under this section, and they may create and issue securities required for the purpose of borrowing money in manner aforesaid.

Power of
Scottish
Electricity
Boards to
borrow foreign
currency by
issue of
securities.
1943 c. 32.

(2) The amount outstanding in respect of the principal of any securities issued under this section shall be included in the aggregate of the amounts outstanding in respect of loans raised by the Scottish Electricity Boards which is subject to the limit imposed by section 47(7) of the Electricity Act 1947; but this subsection shall not prevent the Scottish Electricity Boards from borrowing in excess of the said limit for the purpose of redeeming any securities issued under this section which they are required or entitled to redeem.

1947 c. 54.

(3) Section 14 of the Hydro-Electric Development (Scotland) Act 1943 (power of Treasury to guarantee loans to Scottish Electricity Boards) shall apply to any loan proposed to be raised by the Scottish Electricity Boards under this section.

(4) Nothing in this section shall be taken as exempting the Scottish Electricity Boards from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946 or from the provisions of the Exchange Control Act 1947.

1946 c. 58.
1947 c. 14.

(5) In this section “the Scottish Electricity Boards” means the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board.

4.—(1) Subject to the provisions of this section, the Gas Council may borrow, from such persons and on such terms as the Minister may, with the approval of the Treasury, from time to time specify, any sums of foreign currency by the issue of stock, bonds or other securities under this section for all or any of the purposes mentioned in section 42(2) of the Gas Act 1948 and the redemption of securities previously issued under this section, and they may create and issue securities required for the purpose of borrowing money in manner aforesaid.

Power of Gas
Council to
borrow foreign
currency by
issue of
securities.
1948 c. 67.

(2) The amount outstanding in respect of the principal of any securities issued under this section shall be included in the aggregate of amounts outstanding in respect of loans raised by the Gas Council and Area Gas Boards which is subject to the limit imposed by section 42(3) of the Gas Act 1948; but this

subsection shall not prevent the Gas Council from borrowing in excess of the said limit for the purpose of redeeming any securities issued under this section which they are required or entitled to redeem.

1948 c. 67.

(3) Section 45 of the Gas Act 1948 (Treasury guarantees) shall have effect as if the reference to British Gas Stock, other than that issued for the purpose of satisfying a right to compensation which under that Act is expressly required to be satisfied by the issue of stock, included a reference to securities issued under this section, and section 44(1) to (3) (estimates of Area Boards' requirements and allocation to them of liabilities in respect of British Gas Stock) and section 46 (central guarantee fund) of that Act shall have effect as if references to British Gas Stock included references to securities so issued.

(4) The prohibition contained in subsection (4) of section 42 of the Gas Act 1948 of borrowing save as provided by that section shall not apply to borrowing under this section.

1946 c. 58.

1947 c. 14.

(5) Nothing in this section shall be taken as exempting the Gas Council from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946 or from the provisions of the Exchange Control Act 1947.

Furnishing of
overseas aid
by electricity
and gas
authorities.

5. Each of the following bodies, namely, the Electricity Council, the Central Electricity Generating Board, an Area Electricity Board in England and Wales, the Gas Council and an Area Gas Board shall have power, with the consent of the Minister, and the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board shall have power, with the consent of the Secretary of State, to enter into and carry out agreements with the Minister of Overseas Development whereunder the body acts, at the expense of that Minister, as the instrument by means whereof technical assistance is furnished by him in exercise of the power conferred on him by section 1(1) of the Overseas Aid Act 1966.

1966 c. 21.

Power to
appoint
further
additional
members of
Gas Council.
1965 c. 60.

6. Section 2 of the Gas Act 1965 (which entitles the Minister to appoint, from amongst persons appearing to him to be qualified as mentioned in paragraph (a) of section 5(4) of the Gas Act 1948 (constitution of Gas Council) not more than three persons to be additional members of that Council) shall have effect with the substitution, for the words "three persons", of the words "five persons".

Interpretation.

7.—(1) In this Act, except where the context otherwise requires—

"the Minister" means the Minister of Power; and

"foreign currency" means any currency other than sterling.

(2) Except where the context otherwise requires, any reference in this Act to any other enactment is a reference to that enactment as amended by any subsequent enactment, and includes a reference to it as applied by any subsequent enactment.

8. This Act may be cited as the Gas and Electricity Act 1968. Short title.

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Family Allowances and National Insurance Act 1968

1968 CHAPTER 40

An Act to increase family allowances under the Family Allowances Act 1965 and make related adjustments of certain benefits under the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965, and for connected purposes. [3rd July 1968]

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

1.—(1) The allowances payable under the Family Allowances Act 1965, as amended by the Family Allowances and National Insurance Act 1967, for periods after the coming into force of this subsection shall be increased by three shillings, and accordingly in relation to any such period the said Act of 1965, as so amended, shall be further amended as follows—

Increase of family allowances and related amendments.
1965 c. 53.
1967 c. 90.

- (a) in section 1 (payment and amount of allowances) for the words from “ an allowance ” to the end there shall be substituted the words “ an allowance in respect of each child in the family other than the elder or eldest at the rate of eighteen shillings a week in respect of the first child other than the elder or eldest and twenty shillings a week in respect of each other such child ”;
- (b) in section 3(2) and in the proviso to paragraph 1(1) of the Schedule (minimum weekly contribution required from a person towards the maintenance of a child not living with him if the child is to be included in a family as being his issue or maintained by him) for the words “ fifteen shillings a week ” there shall be substituted the words “ eighteen shillings a week ”;

1967 c. 90. and section 1(1) of the Family Allowances and National Insurance Act 1967 is hereby repealed.

1965 c. 51. (2) The following rates of benefit provided by Schedule 3 to the National Insurance Act 1965, as amended by the Family Allowances and National Insurance Act 1967, namely those specified in column 4 (increases for second qualifying child) and those specified in column 5 (increases for each additional qualifying child), shall each be decreased by three shillings; and accordingly—

(a) for the provisions of that Schedule as set out in Schedule 1 to the Family Allowances and National Insurance Act 1967 there shall be substituted the provisions set out in Schedule 1 to this Act; and

(b) in the said Act of 1967, section 1(2) and Part I of Schedule 1 are hereby repealed.

1965 c. 52. (3) In the provisions of Schedule 3 to the National Insurance (Industrial Injuries) Act 1965, as set out in Schedule 6 to the
1967 c. 73. National Insurance Act 1967, there shall be made in paragraphs 7 and 11 (as amended by the Family Allowances and National Insurance Act 1967) the further amendments provided for by Schedule 2 to this Act (being amendments decreasing certain rates of benefit payable in respect of children); and accordingly, in the Family Allowances and National Insurance Act 1967, section 1(3) and Part I of Schedule 2 are hereby repealed.

1965 c. 53. (4) Section 114(2)(c) of the National Insurance Act 1965 and section 86(2)(c) of the National Insurance (Industrial Injuries) Act 1965 (under which references in those Acts to a person having a family which includes a child or children or to a child of a person's family are to be construed by reference to the operation of the Family Allowances Act 1965) shall have effect by reference to the operation of the Family Allowances Act 1965 as amended by subsection (1)(b) above.

Expenses. 2.—(1) There shall be paid out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of such moneys under the Family Allowances Act 1965.

(2) Subject to the provision made by section 85 of the National Insurance Act 1965 for reimbursement out of the National Insurance Fund or by section 61 of the National Insurance (Industrial Injuries) Act 1965 for reimbursement out of the Industrial Injuries Fund, there shall be paid out of moneys provided by Parliament any increase attributable to this Act in the expenses of the Minister of Social Security or any other government department which are so payable under either of those sections.

- 3.—(1)** This Act may be cited as the Family Allowances and National Insurance Act 1968, and—
- (a)** the Family Allowances Acts 1965 and 1967 and this Act may be cited together as the Family Allowances Acts 1965 to 1968;
- (b)** the National Insurance Acts 1965 to 1967 and this Act may be cited together as the National Insurance Acts 1965 to 1968; and
- (c)** the National Insurance (Industrial Injuries) Acts 1965 to 1967 and this Act may be cited together as the National Insurance (Industrial Injuries) Acts 1965 to 1968.
- (2)** This Act—
- (a)** in relation to allowances under the Family Allowances Act 1965 shall be construed as one with that Act; 1965 c. 53.
- (b)** in relation to benefit under the National Insurance Act 1965 shall be construed as one with that Act; 1965 c. 51.
- (c)** in relation to benefit under the National Insurance (Industrial Injuries) Act 1965 shall be construed as one with that Act. 1965 c. 52.
- (3)** Schedule 3 to this Act shall have effect with respect to the commencement of section 1 of this Act and with respect to the transitory matters dealt with in that Schedule.

SCHEDULES

SCHEDULE 1

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 3 OF NATIONAL INSURANCE ACT 1965

RATES OF PERIODICAL BENEFITS AND OF INCREASES FOR DEPENDANTS

| 1 Description of Benefit | 2 Weekly rate | 3 Increase for only, elder or eldest quali- fying child | 4 Increase for second quali- fying child | 5 Increase for each additional quali- fying child | 6 Increase for adult dependant (where payable) |
|---|---------------------|--|--|---|--|
| | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. |
| 1. Unemployment or sick- ness benefit under s. 19(2)— | | | | | |
| (a) in the case of a person over the age of 18, not being a married woman ... | 4 10 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| (b) in the case of a person under the age of 18, not being a married woman— | | | | | |
| (i) during any period during which that person is entitled to an increase of benefit in respect of a child or adult dependant ... | 4 10 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| (ii) during any other period ... | 2 10 0 | — | — | — | — |
| (c) in the case of a married woman over the age of 18— | | | | | |
| (i) during any period during which she is en- titled to an in- crease of benefit in respect of her husband, or dur- ing which she is not residing with her husband nor is he contributing to her mainten- ance at not less than the relevant rate ... | 4 10 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| (ii) during any other period ... | 3 2 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| (d) in the case of a married woman under the age of 18— | | | | | |
| (i) during any period during | | | | | |

| 1 Description of Benefit | 2 Weekly rate | 3 Increase for only, elder or eldest quali- fying child | 4 Increase for second quali- fying child | 5 Increase for each additional quali- fying child | 6 Increase for adult dependant (where payable) |
|---|---------------------|--|--|---|--|
| | £ s. d. | £ s. d. | £ s. d. | £ s. d. | £ s. d. |
| 1. Unemployment or sick- ness benefit under s. 19(2) — <i>cont.</i> | | | | | |
| which she is en- titled to an in- crease of benefit in respect of her husband, or dur- ing which she is entitled to an in- crease of benefit in respect of a child or an adult dependant other than her husband and she is not residing with her husband nor is he contributing to her maintenance at not less than the relevant rate | 4 10 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| (ii) during any other period during which she is en- titled to an in- crease of benefit in respect of a child or adult dependant ... | 3 2 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| (iii) during any other period ... | 2 10 0 | — | — | — | — |
| 2. Unemployment or sickness benefit at a weekly rate determined under s. 19(3) | — | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| 3. Maternity allowance ... | 4 10 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| 4. Widow's allowance ... | 6 7 0 | 2 5 6 | 1 7 6 | 1 5 6 | — |
| 5. Widowed mother's allow- ance | 4 10 0 | 2 5 6 | 1 7 6 | 1 5 6 | — |
| 6. Widow's pension ... | 4 10 0 | — | — | — | — |
| 7. Guardian's allowance ... | 2 5 6 | — | — | — | — |
| 8. Retirement pension— | | | | | |
| (a) where the pension is payable to a woman by virtue of her hus- band's insurance and he is alive | 2 16 0 | 1 8 0 | 10 0 | 8 0 | — |
| (b) in any other case ... | 4 10 0 | 1 8 0 | 10 0 | 8 0 | 2 16 0 |
| 9. Child's special allowance | 2 5 6 | — | 1 7 6 | 1 5 6 | — |

SCH. 1

1. In paragraphs 1(c)(i) and 1(d)(i) of this Schedule "the relevant rate" means a weekly rate equal to the difference under this Schedule between the rates of benefit applying if the husband is, and if he is not, contributing to the wife's maintenance at not less than the relevant rate.

2. In paragraph 2 of this Schedule, column 6 shall have effect subject to section 43(3)(b) of this Act.

Section 1.

SCHEDULE 2

AMENDMENTS OF SCHEDULE 3 TO NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT 1965

1965 c. 52.
1967 c. 73.
1967 c. 90.

1. In Schedule 3 to the National Insurance (Industrial Injuries) Act 1965, as set out in Schedule 6 to the National Insurance Act 1967, in paragraph 7 (under which, as amended by the Family Allowances and National Insurance Act 1967, the weekly amount of increases in respect of children in industrial injury benefit or a disablement pension is £1 8s. for the first, 13s. for the second and 11s. for any other child) there shall be substituted for the entries in column 2—

| | | |
|---|--------|--------|
| " (a) in respect of only, elder or eldest child of beneficiary's family | | £1 8s. |
| (b) in respect of second child of beneficiary's family... | ... | 10s. |
| (c) in respect of each additional child of beneficiary's family | | 8s." |

2. In that Schedule, as so set out, in paragraph 11, in sub-paragraph (a) (under which, as so amended, the ordinary weekly rate of death benefit in respect of children of the deceased's family is £1 8s. for the first, 13s. for the second and 11s. for any other child) there shall be substituted for the entries in column 2—

| | |
|--|-------------|
| " (i) in respect of only, elder or eldest qualifying child | £1 8s. |
| (ii) in respect of second qualifying child | 10s. |
| (iii) in respect of each additional qualifying child | 8s." |

Section 3.

SCHEDULE 3

COMMENCEMENT AND TRANSITORY PROVISIONS

Commencement of section 1

1.—(1) The provisions of section 1 of this Act shall not come into force until such date as the Minister of Social Security may by order appoint.

(2) Different days may be appointed under this paragraph for different purposes of section 1 or for the same purposes in relation to different cases or classes of case; and if that is done then—

(a) an order under this paragraph may contain such incidental or supplemental provisions as appear to the Minister to be necessary or expedient as respects the period or any part of

the period when the provisions contained in section 1 and in Schedules 1 and 2 to this Act are to have a partial operation only, and, in particular, may contain provisions modifying and supplementing, in relation to the period to which the order is to apply, the provisions so contained or those of any previous Act relating to national insurance; and

(b) any provision made in pursuance of paragraph (a) above may be varied or revoked by a subsequent order of the Minister.

(3) Section 107(4) of the National Insurance Act 1965 (which provides for orders under that Act to be subject to annulment in pursuance of a resolution of either House of Parliament) shall not apply to any order under this paragraph, but a statutory instrument containing any such order shall be laid before Parliament after being made. 1965 c. 51.

Awards made before changes in rates take effect

2.—(1) As from the date on which section 1(1) of this Act comes into force any allowance under the Family Allowances Act 1965 awarded before that date shall, subject to any prescribed exceptions or conditions, become payable at the rate provided for by this Act, and the award shall have effect accordingly. 1965 c. 53.

(2) Accordingly any award of such an allowance made before that date (but after that date is appointed) either may provide for the allowance to be paid as from that date at the rate provided for by this Act or may be expressed in terms of the rates appropriate at the date of the award.

3.—(1) Where the weekly rate of any benefit is decreased by this Act, and before the date when the decrease takes effect (in this paragraph referred to as "the relevant date") an award of that benefit has been made whether before or after the passing of this Act, then subject to such exceptions or conditions as may be prescribed the benefit shall, except as respects any period falling before the relevant date, become payable at the rate appropriate under or by virtue of this Act without any review of the award, and the award shall have effect accordingly.

(2) Where the weekly rate of any benefit is decreased by this Act, and before the relevant date (but after the date is appointed) an award is made of the benefit, the award either may provide for the benefit to be paid as from the relevant date at the rate appropriate under or by virtue of this Act or may be expressed in terms of the rates appropriate at the date of the award.

Set-off of overpayments of benefit

4. Where a beneficiary receives in respect of any persons as being, or as falling to be treated as, children of his family an amount of benefit which by reason of section 1 of this Act is not properly payable, but would have been properly payable according to the rates in force at the passing of this Act or at that of the Family Allowances and National Insurance Act 1967, and he receives it for a period for which there are payable to him or anyone else in respect of those 1967 c. 90.

SCH. 3
1965 c. 53.

persons or any of them allowances under the Family Allowances Act 1965 at a rate which would not have been payable but for this Act, then the amount of benefit overpaid and not required to be repaid shall be treated as having been properly paid up to the amount of any arrears of allowances payable under the Family Allowances Act 1965 for that period in respect of those persons, and any such arrears shall be correspondingly reduced or withheld.

Calculation of contributions to cost of providing for child

5. Where for any purpose of the provisions amended by section 1(1)(b) of this Act the weekly rate at which a person contributes to the cost of providing for a child is to be calculated for a period after section 1(1)(b) applies, but account is taken of amounts referable to the period before it applies, then those amounts shall be treated as increased in proportion to the increase effected by section 1(1)(b) in the required rate of contributions.

Continuation of previous rates of benefit in special cases

6. As regards benefit of which any weekly rate is reduced by this Act, the Minister of Social Security may by regulations make provision, either generally or for particular cases or classes of case, for excluding the reduction in whole or in part where—

- (a) immediately before the reduction takes effect a person is entitled to any such benefit in respect of any children; and
- (b) during any period during which he continues without a break to be entitled to benefit (whether the same benefit or another) in respect of those children or any of them the aggregate weekly rate of the benefit to which he is entitled in respect of those children and of the allowances payable in respect of them under the Family Allowances Act 1965 is less than it would have been according to the rates in force at the passing of this Act.

Regulations

1965 c. 51.
1965 c. 52.

7. Section 108 of the National Insurance Act 1965 and section 62(2) of the National Insurance (Industrial Injuries) Act 1965 (which require a draft of proposals for regulations under the Act to be submitted to the National Insurance Advisory Committee or Industrial Injuries Advisory Council, as the case may be) shall not apply to any regulations (whether made under this Schedule or not) if they are contained in a statutory instrument made before the expiration of the six months beginning with the date of the passing of this Act and the instrument states that it is made in consequence of the passing of this Act.

Interpretation

8. In this Schedule “benefit” means benefit under the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965, and “beneficiary” has a corresponding meaning.



Countryside Act 1968

1968 CHAPTER 41

An Act to enlarge the functions of the Commission established under the National Parks and Access to the Countryside Act 1949, to confer new powers on local authorities and other bodies for the conservation and enhancement of natural beauty and for the benefit of those resorting to the countryside and to make other provision for the matters dealt with in the Act of 1949 and generally as respects the countryside, and to amend the law about trees and woodlands, and foot-paths and bridleways, and other public paths.

[3rd July 1968]

BE IT ENACTED by the Queen'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 Countryside Commission

1.—(1) The functions of the National Parks Commission shall be enlarged in accordance with this Act and in future their name shall be the "Countryside Commission".

General functions of the Commission.

(2) The functions conferred by this Act on the said Commission (in this Act referred to as "the Commission") are to be exercised for the conservation and enhancement of the natural beauty and amenity of the countryside, and encouraging the provision and improvement, for persons resorting to the countryside, of facilities for the enjoyment of the countryside and of open-air recreation in the countryside.

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(3) The Commission shall have power—

- (a) to make such charges for any of their services as they think fit,
- (b) to accept any gift or contribution made to them for the purposes of any of their functions, and, subject to the terms of the gift or contribution and to the provisions of the National Parks and Access to the Countryside Act 1949 (in this Act referred to as “the Act of 1949”) and this Act, to apply it for those purposes, and
- (c) to do all such things as are incidental to, or conducive to the attainment of the purposes of, any of their functions.

1949 c. 97.

(4) In section 2(3) of the Act of 1949 (power to pay remuneration to Commission’s chairman and deputy chairman) for the words “the chairman and deputy chairman” there shall be substituted the words “any of the members”.

(5) In sections 1 and 2(1) of the Act of 1949 for the words “National Parks Commission” there shall be substituted the words “Countryside Commission”, and in section 4(1) of the Act of 1949 (Commission’s annual report) the reference to the Commission’s functions under the Act of 1949 shall include a reference to their functions under this Act.

1957 c. 20.

(6) In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which specifies offices the holders of which are disqualified under that Act) as it applies to the House of Commons of the Parliament of the United Kingdom, there shall be inserted at the appropriate point in alphabetical order the entry “Any member of the Countryside Commission in receipt of remuneration”.

New functions
of the
Commission.

2.—(1) The Commission shall have the general duties imposed by this section, but nothing in this section shall be construed as modifying the effect of any provision of this Act or of the Act of 1949 whereby any general or specific power or duty is conferred or imposed on the Commission, or whereby an obligation is imposed on any other person to consult with the Commission.

(2) The Commission shall keep under review all matters relating to—

- (a) the provision and improvement of facilities for the enjoyment of the countryside,
- (b) the conservation and enhancement of the natural beauty and amenity of the countryside, and

(c) the need to secure public access to the countryside for the purposes of open-air recreation,

and shall consult with such local planning authorities and other bodies as appear to the Commission to have an interest in those matters.

(3) The Commission shall encourage, assist, concert or promote the implementation of any proposals with respect to those matters made by any person or body, being proposals which the Commission consider to be suitable.

(4) The Commission shall advise any Minister having functions under this Act, or any other Minister or any public body, on such matters relating to the countryside as he or they may refer to the Commission, or as the Commission may think fit.

(5) Where it appears to the Commission that the provision and improvement of facilities for enjoyment of the countryside or the conservation and enhancement of the natural beauty and amenity of the countryside presents special problems or requires special professional or technical skill, the Commission—

(a) shall notify their opinion to the appropriate local planning authority or other public body, and

(b) on the application of any such authority or other body in any case where it appears to the Commission expedient having regard to the provisions of section 1(2) of this Act, and to the provisions of section 5(1) of the Act of 1949 (general provisions as respects National Parks), shall place the services of officers or servants of the Commission, or the services of consultants engaged by the Commission, at the disposal of the authority or other body for such period as may be agreed between them, and on such terms as to payment or otherwise, as may be so agreed with the approval of the Minister.

(6) The Commission shall make to local planning authorities and other public bodies, as respects the exercise of the powers of making byelaws conferred by this Act and the Act of 1949, recommendations as to the matters in respect of which byelaws should be made.

(7) The Commission shall carry out, or commission the carrying out of, such inquiries, investigations or researches, either on their own account or jointly with other persons, as the Commission may deem necessary or expedient for the purposes of any of their functions.

(8) The Commission shall provide, or assist in the provision of, publicity and information services relating to the countryside, to places of beauty or interest therein, or to the functions

of the Commission, and shall take such steps as appear to them expedient for securing that suitable methods of publicity are used for the prevention of damage in the countryside and for encouraging a proper standard of behaviour on the part of persons resorting to the countryside.

(9) The Commission shall make to the Minister such recommendations as the Commission think proper in respect of applications by local authorities for Exchequer grants under this Act or the Act of 1949.

Exercise of functions of Commission in Wales and Monmouthshire.

3.—(1) The Commission shall, after consultation with the Secretary of State, appoint a Committee for Wales.

(2) The membership of the Committee for Wales shall consist partly of persons who are members of the Commission, one of whom shall be the chairman of the Committee, and partly of persons, not exceeding four in number, who are not members of the Commission.

(3) The Commission may, after consulting the Secretary of State and subject to such conditions as they think appropriate, delegate any of their functions in Wales or Monmouthshire to the Committee for Wales, including (for Wales and Monmouthshire) their advisory functions under section 2 of this Act, and their duty of making recommendations under that section in respect of local authorities' applications for Exchequer grants.

(4) So much of section 2(3) of the Act of 1949 as authorises the payment of allowances in respect of the matters listed in paragraphs (a), (b) and (c) of that subsection shall apply as if all the members of the Committee for Wales were members of the Commission.

Experimental projects or schemes.

4.—(1) The Commission, after consultation with such local authorities and other bodies as appear to the Commission to have an interest, may from time to time prepare and submit to the Minister for his approval proposals with respect to any area for an experimental project or scheme designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity, which—

- (a) in relation to that area involves the application of new or developed methods, concepts or techniques, and
- (b) is designed to illustrate the appropriateness of such a project or scheme to that area or other areas of a similar nature or which present similar problems to that area,

and the Minister may approve in whole or in part or with modifications any proposals so submitted to him, or may refuse to approve them.

(2) The Commission shall concert, promote, or undertake either by themselves or in conjunction with any other authority or person, measures to implement any proposals so approved.

(3) For the purpose of their functions under the foregoing provisions of this section the Commission may—

- (a) with the approval of the Minister acquire land by agreement, or may be authorised by the Minister in a particular case to acquire land compulsorily,
- (b) hold and manage land, and with the approval of the Minister and subject to the subsequent provisions of this section, dispose of or otherwise deal with land,
- (c) erect buildings and carry out works or other operations on land,
- (d) provide equipment, facilities and services on or in connection with land or with the use of land,
- (e) hold, manage, maintain, hire, let or otherwise dispose of such works, equipment, facilities or services,
- (f) exercise any powers to carry out work or to provide facilities or services conferred by this Act or the Act of 1949 on local authorities or local planning authorities,
- (g) with the approval of the Minister and the Treasury, acquire by agreement and carry on or set up and carry on, directly or through an agent, or themselves carry on as agent, any business or undertaking relevant to the experimental project or scheme, and, subject to the approval of the Minister and the Treasury, may dispose of any such business or undertaking.

(4) The disposal of land under this section may be by way of sale or exchange, or by the letting of land or the granting of any interest in or right over land, but the Commission shall not under this section dispose of land by way of gift.

(5) The powers conferred by paragraphs (c) to (f) of subsection (3) above may be exercised by the Commission—

- (a) on land belonging to them, or
- (b) on such terms as may be agreed with the owners and any other persons whose authority is required for the purpose, on other land,

and an agreement under paragraph (b) above may provide for the making by the Commission of payments in consideration of the making of the agreement and payments by way of contribution towards expenditure incurred by the persons making the agreement in consequence thereof.

(6) The provisions of this section, except for that authorising compulsory purchase of land, shall have effect only for the purpose of removing any limitation imposed by law on the

capacity of the Commission, and shall not authorise any act or omission on the part of the Commission which, apart from the said provisions of this section, would be actionable at the suit of any person on any ground other than such a limitation.

Grants and loans to persons other than public bodies.

5.—(1) In accordance with arrangements approved by the Minister and the Treasury, the Commission shall have power to give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person, other than a public body, carrying on or proposing to carry on any project approved by the Minister for the purposes of this section which in the opinion of the Commission is conducive to the attainment of any of the purposes of this Act or the Act of 1949.

(2) Financial assistance by way of grant under this section shall not exceed seventy-five per cent. of the expenditure in respect of which the grant is made.

(3) Before applying for the approval of the Minister under this section to any project the Commission shall satisfy themselves that in all the circumstances it is preferable that the project should be carried out by a person other than a public body.

(4) On making a grant or loan under this section the Commission may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.

(5) In this section “public body” does not include the National Trust.

New powers of local authorities

Country parks and commons: preliminary.

6.—(1) The powers conferred by this and the three next following sections shall be exercisable for the purpose of providing, or improving, opportunities for the enjoyment of the countryside by the public, and a local authority in exercising those powers in any area in the countryside shall have regard—

- (a) to the location of that area in the countryside in relation to an urban or built-up area, and
- (b) to the availability and adequacy of existing facilities for the enjoyment of the countryside by the public.

(2) In this and the three next following sections “local authority” means—

- (a) the council of a county, county borough or county district, or
- (b) the Greater London Council, the Common Council of the City of London or any London borough council, or

(c) a National Park joint planning board, that is to say a joint planning board constituted under section 2 of the Town and Country Planning Act 1962 for an area which consists of or includes any part of a National Park. 1962 c. 38.

(3) A local authority may exercise the powers conferred by the three next following sections inside or outside their area, except that only the council of a county borough may exercise those powers wholly or partly within the county borough.

(4) Before a local authority exercise any of the powers conferred by the next following section as respects any land, or acquire any land, or any additional land, for the purpose of exercising those powers, they shall comply with the requirements in the following Table.

TABLE

| <i>Authority exercising powers</i> | <i>Requirement</i> |
|---|---|
| A county council | Consult the council of any county district in the county which will comprise all or any part of the land. Obtain the consent of the council of any other county which will comprise all or any part of the land. |
| Council of a county district | Obtain the consent of the county council, and of the council of any other county which will comprise all or any part of the land. |
| Council of a county borough, the Greater London Council, Common Council of the City of London, or any London borough council. | Obtain the consent of the council of any county which will comprise all or any part of the land. |
| National Park joint planning board. | Consult the council of any county district which is wholly or partly in the area of the board and which will comprise all or any part of the land. If any part of the land will be outside the area of the board, obtain the consent of the council of any county which will comprise any such part of the land. |

*Authority exercising powers**Requirement*

- Any local authority... .. If all or any part of the land is within a parish, inform the parish council or, in the case of a parish not having a parish council, the chairman of the parish meeting.
- Any local authority... .. If all or any part of the land is within a parish, inform the parish council or, in the case of a parish not having a parish council, the chairman of the parish meeting.

(5) Before a county council or National Park joint planning board give any consent so required they shall consult the council of any county district within, or partly within, their area which will comprise all or any part of the land.

(6) A local authority may apply to the Minister on the grounds that a county council or National Park joint planning board have unreasonably withheld any consent so required, and the Minister, after affording to the county council, or the board, an opportunity of making representations, may if he thinks fit direct the county council, or the board, to give the consent to which the application relates.

The county council or board shall comply with any direction given by the Minister under this subsection.

1959 c. 53.

(7) Section 29 of the Town and Country Planning Act 1959 (protection of persons deriving title under transactions requiring the consent of a Minister) shall apply as if any reference in that section to the consent of a Minister included a reference to a consent of a local authority required under this section.

Power to provide country parks.

7.—(1) Subject to section 6 above, a local authority shall have power, on any site in the countryside appearing to them suitable or adaptable for the purpose set out in section 6(1) above, to provide a country park, that is to say a park or pleasure ground to be used for that purpose.

(2) A local authority shall have power to extend, maintain and manage the country park and to do all other things appearing to them desirable for the said purpose in connection with the provision of a country park and in particular—

(a) to lay out, plant and improve the site, and to erect buildings and carry out works,

(b) to provide facilities and services for the enjoyment or convenience of the public, including meals and refreshments, parking places for vehicles, shelters and lavatory accommodation,

(c) to provide facilities and services for open-air recreation :

Provided that a local authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor within the country park are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

(3) The powers conferred by the foregoing provisions of this section and by the next following section may be exercised by the local authority—

(a) on land belonging to them, or

(b) on such terms as may be agreed with the owners and any other persons whose authority is required for the purpose, on other land,

and an agreement under paragraph **(b)** above may provide for the making by the local authority of payments in consideration of the making of the agreement and payments by way of contribution towards expenditure incurred by the persons making the agreement in consequence thereof.

(4) A local authority shall have power to acquire compulsorily any land required by them for the purpose of their functions under this and the next following section.

(5) If it appears to a local authority that a park or pleasure ground provided or acquired by the local authority before the coming into force of this section, or otherwise than under or for the purposes of this section, can suitably be used as a country park, that park or pleasure ground shall, from such date as the local authority may determine, be treated for all the purposes of this Act as a country park provided under this section, but—

(a) this subsection shall not affect any trust, covenant or other restriction to which the park or pleasure ground is subject, and

(b) no grant shall be payable under this Act in respect of expenditure incurred before the date so determined.

(6) If it appears to a local authority that land provided or acquired by them before the coming into force of this section, as open country to be used for the purposes of Part V of the Act of 1949, can suitably be used as a country park, that land, or any part of it, shall, from such date as the local authority may determine, be treated for all the purposes of this Act as a country park provided under this section ; and, if the land was acquired under section 76 of the Act of 1949 (compulsory

acquisition for public access), the land so treated shall cease to be subject to that section, but—

- (a) this subsection shall not affect any trust, covenant or other restriction to which the land is subject ; and
- (b) no grant shall be payable under this Act in respect of expenditure incurred before the date so determined.

(7) A country park provided under this section shall not be subject to any of the following enactments (which relate to parks and pleasure grounds):

- 1875 c. 55. Section 164 of the Public Health Act 1875.
- 1890 c. 59. Section 44 of the Public Health Acts Amendment Act 1890.
- 1907 c. 53. Sections 76 and 77 of the Public Health Acts Amendment Act 1907.
- 1925 c. 71. Section 56(5) of the Public Health Act 1925.
- 1948 c. 26. Section 132 of the Local Government Act 1948.

Country parks: sailing, boating, bathing and fishing. **8.—(1)** Without prejudice to the generality of section 7(2) of this Act, where a country park comprises any waterway the kinds of open-air recreation for which the local authority may provide facilities and services under that subsection shall include sailing, boating, bathing and fishing.

(2) If a country park is bounded by the sea, or by any waterway which is not part of the sea, the local authority providing the country park shall have power to carry out such work and do such other things as may appear to them necessary or expedient for facilitating the use of the waters so adjoining the country park by the public for sailing, boating, bathing and fishing and other forms of recreation.

(3) The powers conferred by subsections (1) and (2) above include power to erect buildings or carry out works on land adjoining the sea or other waters but outside the country park, and to construct jetties or other works wholly or partly in the sea or other waters.

(4) The local authority, before acting under the foregoing provisions of this section, shall consult with, and seek the consent of, any river authority having functions relating to the sea or other waters in question, and of such other authorities, being authorities which under any enactment have functions relating to the sea or other waters in question, as the Minister may either generally or in any particular case direct, and Schedule 1 to this Act shall have effect where any authority so consulted withhold their consent.

(5) A local authority may make byelaws regulating the use of works carried out by them pursuant to this section and of any facilities or services provided in connection with the works, but before making any such byelaws the local authority shall consult the Commission:

Provided that byelaws made under this subsection shall not interfere with the exercise of any functions relating to the waters or land to which the byelaws apply which are exercisable by any authority under any enactment.

Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this subsection were byelaws under that Act.

(6) Nothing in this section shall authorise the carrying out of any operation in contravention of section 34 of the Coast Protection Act 1949 (works detrimental to navigation) or section 9 of the Harbours Act 1964 (control of harbour development). 1949 c. 74.
1964 c. 40.

9.—(1) This section has effect as respects any common land to which the public have rights of access, and the powers conferred by this section are to be exercised in the interests of persons resorting to the common land for open-air recreation. Powers exercisable over or near common land.

(2) Subject to the provisions of section 6 above, a local authority may exercise the powers conferred by this section on land taken out of the common land in accordance with this section and Schedule 2 to this Act, or on other land in the neighbourhood of the common land.

(3) A local authority shall have power to do anything appearing to the local authority to be desirable for the purpose set out in section 6(1) above, and in the interests of persons resorting to the common land, and in particular—

(a) to provide facilities and services for the enjoyment or convenience of the public, including meals and refreshments, parking places for vehicles, shelters and lavatory accommodation,

(b) to erect buildings and carry out works :

Provided that a local authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor in the neighbourhood of the common land are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

(4) Schedule 2 to this Act shall have effect for the purposes of this section, and in that Schedule “the principal section” means this section.

(5) A local authority shall have power to acquire compulsorily any land in the neighbourhood of the common land which is required by them for the purposes of their functions under this section and which is not common land.

(6) In this section—

“common land” has the meaning given by section 22(1) of the Commons Registration Act 1965 ;

1965 c. 44.

“ common land to which the public have rights of access ”
means—

1925 c. 20.

(a) land to which section 193 of the Law of Property Act 1925 for the time being applies, other than land to which that section applies by virtue of a revocable instrument, or

(b) common land comprised in an access agreement or access order under Part V of the Act of 1949, other than a revocable access agreement or an access agreement expressed to have effect only for a period specified in the agreement, or

(c) any other common land to which the public have rights of access permanently or for an indefinite period.

Camping and picnic sites.

10.—(1) A local planning authority and the council of a county district shall have power to provide in the countryside within their area camping sites for holiday and recreational purposes, to be used primarily as places for setting up tents, with space for parking vehicles and a means of access to and from a road.

(2) A local planning authority and the council of a county district shall have power to provide in the countryside within their area picnic sites for motorists and others using the roads, with space for parking vehicles and a means of access to and from a road.

(3) Subject to the provisions of this section, the local authority shall have power to do anything appearing to them desirable in connection with the provision of a site under subsection (1) or subsection (2) above, and in particular to manage a site or to lease it to some other person, and to provide for the use of those occupying the site any services or facilities for their health or convenience.

(4) A local authority shall have power to acquire compulsorily any land required by them for the purposes of their functions under this section.

*Nature conservation, National Parks
and access to open country*

Conservation of natural beauty.

11. In the exercise of their functions relating to land under any enactment every Minister, government department and public body shall have regard to the desirability of conserving the natural beauty and amenity of the countryside.

Facilities in or near National Parks.

12.—(1) A local planning authority whose area consists of or includes the whole or any part of a National Park may, at the request of, and in accordance with terms laid down by, the Commission, make arrangements for securing the provision in

the area of the local planning authority (whether by the authority or by other persons) of study centres and other facilities for learning about the history, natural features, flora and fauna of the National Park and the objects of architectural, archaeological or historical interest therein; and section 12 of the Act of 1949 (provision of facilities in National Parks) shall have effect as if the functions of local planning authorities under this subsection were functions conferred by subsection (1) of that section.

Expenses incurred by a local planning authority under this subsection shall be expenses towards which the Commission may make contributions under section 86 of the Act of 1949 (information services) and no grant shall be payable under paragraph (a) or paragraph (e) of section 97(1) of the Act of 1949 in respect of expenses incurred by the local planning authority under this subsection, or expenses in or in connection with the acquisition of land for the purposes of this subsection.

(2) The functions conferred by subsection (1) of the said section 12 of the Act of 1949 shall include the making of arrangements for securing the provision in their area (whether by the authority or by other persons)—

(a) of public sanitary conveniences in proper and convenient situations, and

(b) of receptacles for refuse or litter, and services for the regular emptying and cleansing of those receptacles.

(3) A local planning authority whose area consists of or includes any part of a National Park which is bounded by the sea, or by any waterway which is not part of the sea, may, on land which is in or in the neighbourhood of the National Park, carry out such work and do such other things as may appear to them necessary or expedient for facilitating the use of the waters so adjoining the National Park by the public for sailing, boating, bathing and fishing and other forms of recreation:

Provided that a local planning authority shall not under this subsection provide facilities of any description except in cases where it appears to them that the facilities of that description are inadequate or unsatisfactory.

(4) The works which a local planning authority may carry out under subsection (3) above include the construction of jetties and other works wholly or partly in the sea or in other waters.

The local planning authority, before acting under this subsection, shall consult with and seek the consent of, any river authority having functions relating to the sea or other waters in question and of such other authorities, being authorities which under any enactment have functions relating to the part

of the sea or other waters in question, as the Minister may either generally or in any particular case direct, and Schedule 1 to this Act shall have effect where any authority so consulted withhold their consent.

(5) A local planning authority may make byelaws regulating the use of works carried out by them under subsection (3) above in the waters bounding a National Park and of any facilities or services provided in connection with the works, but before making any such byelaws the local planning authority shall consult the Commission:

Provided that byelaws made under this subsection shall not interfere with the exercise of any functions relating to the waters or land to which the byelaws apply which are exercisable by any authority under any enactment.

Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this subsection were byelaws under that Act.

(6) The Act of 1949 shall have effect as if subsections (3) and (4) above formed part of section 13(1) of that Act, and section 75 of that Act (which relates to the exercise of powers under the said section 13 as respects land comprised in access orders) shall have effect accordingly, and in the said section 13(1) for the words "or fishing" there shall be substituted the words "or fishing or other forms of recreation".

(7) Subsections (2), (3) and (4) of section 13 of the Act of 1949 (carrying out of work on behalf of local planning authority by some other authority) shall apply to any part of the sea bounding a National Park as they apply to a waterway.

(8) Nothing in the said section 13 as extended by this section shall authorise the carrying out of any operation in contravention of section 34 of the Coast Protection Act 1949 or section 9 of the Harbours Act 1964.

1949 c. 74.
1964 c. 40.

Lakes in
National
Parks: control
of boats etc.

13.—(1) A local planning authority whose area consists of or includes the whole or any part of a National Park shall have power to make byelaws for the prohibition or restriction of traffic of any description on any lake in the National Park.

(2) The power shall be exercisable for the purpose of—

- (a) ensuring the safety of persons resorting to any such lake,
- (b) regulating all forms of sport or recreation involving the use of boats or vessels,
- (c) conserving the amenity and natural beauty of any such lake and the surrounding area, and
- (d) preventing nuisance or damage, and in particular nuisance from excessive noise.

(3) Without prejudice to the generality of the foregoing provisions of this section, byelaws under this section may—

- (a) prescribe rules of navigation and impose speed limits,
- (b) require the use of effectual silencers on boats or vessels propelled by internal combustion engines, and prescribe rules with a view to imposing limits on the noise or vibration which may be caused by any such boat or vessel,
- (c) prohibit the use of boats or vessels which are not for the time being registered with the local planning authority in such manner as the byelaws may provide,
- (d) authorise the making of reasonable charges in respect of the registration of boats or vessels in pursuance of the byelaws,
- (e) make different provision for different circumstances, and in particular may impose different restrictions in different parts of the lake and at different times or seasons.

(4) In acting under this section the local planning authority shall have regard to the fulfilment of the objects set out as respects National Parks in sections 1 and 5 of the Act of 1949, and, before making any byelaws, shall consult the Commission.

(5) Byelaws under this section shall not be made so as to extinguish any public right of way over any waters, but, except as otherwise expressly provided, any byelaws under this section shall apply to persons exercising any such public right of way as they apply to other persons.

(6) Byelaws under this section—

- (a) shall be of no effect if and in so far as inconsistent with any rules under the Merchant Shipping Act 1894 which are in force as respects the water to which the byelaws apply, 1894 c. 60.
- (b) shall not interfere with any functions relating to the water or land to which the byelaws apply which are exercisable by any authority under any enactment.

(7) This section shall not apply to any lake owned or managed by a river authority or by any statutory undertakers.

(8) Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this section were byelaws under that Act.

(9) Subsections (1) and (2), and subject to the next following subsection subsection (4), of section 92 of the Act of 1949 (appointment of wardens of land for which byelaws may be made under section 90 of that Act) shall have effect as if the power of making byelaws conferred by this section was contained in the said section 90.

(10) For the purpose of securing compliance with any byelaws made under this section, a warden appointed under the said section 92 as applied by this section may enter upon any land, or go on any water, whether or not within the area where the byelaws are in force.

(11) Where two or more local planning authorities' areas consist of or include part of a National Park, the powers conferred by this section may be exercised by them, or any of them, jointly, or may by agreement between them be exercised by one local planning authority in the part of the National Park in the area of another.

(12) Byelaws made by a local planning authority under this section may be enforced by any local authority in the area of that other local authority.

(13) In this section "lake" includes any expanse of water other than a river or canal.

Conversion
of moor and
heath in
National
Parks to
agricultural
land.

14.—(1) The Minister may, if satisfied that it is expedient, by order apply this section to any land in a National Park appearing to him to be predominantly moor or heath.

(2) The occupier of any land to which this section for the time being applies, and which is moor or heath which has not been agricultural land at any time within the preceding twenty years, shall not, by ploughing or otherwise, convert any of the land into agricultural land unless he has given six months written notice of his intention to the local planning authority.

(3) If, without the consent in writing of the local planning authority, any person fails to comply with subsection (2) above, whether by failing to give a notice, or by taking some action within the six months, he shall be guilty of an offence.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine of not more than £200,
or

(b) on conviction on indictment to a fine.

(5) An order made under subsection (1) above—

(a) may be varied or revoked by a subsequent order so made,

(b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section "agricultural land" does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land.

(7) In considering for the purposes of subsection (2) above whether land has been agricultural land within the preceding twenty years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section.

15.—(1) This section has effect as respects land which is not for the time being managed as a nature reserve but which is or forms part of an area which in the opinion of the Natural Environment Research Council (in this section referred to as “the Council”) is of special interest by reason of its flora, fauna, or geological or physiographical features. Areas of special scientific interest.

(2) Where, for the purpose of conserving those flora, fauna or geological or physiographical features, it appears to the Council expedient in the national interest to do so, the Council may enter into an agreement with the owners, lessees and occupiers of any such land which imposes restrictions on the exercise of rights over land by the persons who can be bound by the agreement.

(3) Any such agreement—

- (a) may provide for the carrying out on the land of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement,
- (b) may provide for any of the matters mentioned in paragraph (a) above being carried out, or for the cost thereof being defrayed, either by the owners or other persons, or by the Council, or partly in one way and partly in another, and
- (c) may contain such other provisions as to the making of payments by the Council as may be specified in the agreement.

(4) Where section 79 of the Law of Property Act 1925 (burden of covenant running with the land) applies to any such restrictions as are mentioned in subsection (2) of this section, the Council shall have the like rights as respects the enforcement of the restrictions as if the Council had at all material times been the absolute owner in possession of ascertained land adjacent to the land in respect of which the restriction is sought to be enforced, and capable of being benefited by the restriction, and the restriction had been expressed to be for the benefit of that adjacent land. 1925 c. 20.

Section 84 of the Law of Property Act 1925 (discharge or modification of restrictive covenants) shall not apply to such a restriction.

1967 c. 10.

(5) Schedule 2 to the Forestry Act 1967 (powers of tenants for life and other limited owners to enter into forestry dedication covenants or agreements) shall apply to any agreement made in pursuance of this section as it applies to such a covenant or agreement.

(6) This section shall apply to Scotland but there shall be substituted for subsection (4) the following subsection—

(4) An agreement under this section may be recorded in the Register of Sasines, and if so recorded shall be enforceable at the instance of the Council against any person having an interest in the land and against any person deriving title from him:

Provided that such an agreement shall not be enforceable against any third party who shall have in good faith and for value acquired right (whether completed by infestment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.

(7) The Act of 1949 shall have effect as if this section were included in Part III of that Act.

Access to open
country:
rivers, canals
and
woodlands.

16.—(1) The definition of “open country” in section 59(2) of the Act of 1949 shall include, if in the countryside, any woodlands.

(2) Subject to subsection (6) below, the said definition shall include, if in the countryside—

(a) any river or canal, and

(b) any expanse of water through which a river, or some part of the flow of a river, runs, and

(c) a strip of the adjacent land on both sides of any river or canal, or of any such expanse of water, of reasonable width, and where a highway crosses or comes close to the river, canal or other water, so much of any land connecting the highway with the strip of land as would, if included together with the strip in an access agreement or order, afford access from the highway to some convenient launching place for small boats.

(3) The strip of adjacent land comprised in any access order shall be wide enough to allow passage on foot along the water and wide enough to allow the public to picnic at convenient places and, where practicable, to embark or disembark, and shall include—

(a) the banks, walls or embankments along the water, and

(b) any towpath or other way or track beside the water.

(4) Local planning authorities shall exercise their powers under Part V of the Act of 1949 over any such strip of land with special regard to the interests of persons using small boats who must circumvent obstacles or obstructions on the water by passing round on foot with their boats, and in the interests of persons who wish to obtain access from a highway to convenient launching places for small boats.

(5) In section 60 of the Act of 1949 (rights of public over land subject to an access agreement or order, other than excepted land) subsection (5)(a) (certain agricultural land to be excepted land) shall not apply to any land within subsection (2)(c) above.

(6) Subsections (2) and (3) above shall not apply as respects, or as respects land held with,—

- (a) a reservoir owned or managed by statutory undertakers,
- (b) a reservoir owned or managed by a river authority, or
- (c) a canal, or a part of a canal, owned or managed by the British Waterways Board.

(7) The local planning authority, before making an access agreement or an access order under Part V of the Act of 1949 in respect of land outside a National Park which comprises all or any part of, or of land adjacent to, any river (including any expanse of water through which a river, or some part of the flow of a river runs) or any canal, shall consult with and seek the consent of, any river authority having functions relating to the river or canal in question and of such authorities, being authorities which under any enactment have functions relating to the river or canal in question, as the Minister may either generally or in any particular case direct.

Schedule 1 to this Act shall have effect where any authority so consulted withhold their consent.

(8) Subsection (7) above shall apply with the necessary modifications in relation to an access order to be made by the Minister as it applies in relation to an access order to be made by a local planning authority.

(9) In this section “river” includes a stream and the tidal part of a river or stream.

(10) The provisions of this section shall not be construed as restricting in any way the definition of “open country” in the said section 59(2) as originally enacted.

(11) This and the four next following sections shall be construed as one with Part V of the Act of 1949.

17.—(1) This section applies to land comprised in an access order under Part V of the Act of 1949 (access to open country) confirmed or made by the Minister after the coming into force of this section. Access orders:
agricultural
land.

(2) In section 60 of the Act of 1949 (rights of public over land subject to an access order, other than excepted land) subsection (5)(a) (certain agricultural land to be excepted land) shall not at any time apply to land to which this section applies unless—

- (a) the said subsection (5)(a) applied to that land on the relevant date, or
- (b) a direction given by the Minister under this section is for the time being in force as respects that land.

(3) Where as respects land to which this section applies, not being land to which the said section 60(5)(a) applied on the relevant date, it is represented to the Minister, and the Minister is satisfied—

- (a) that the land is used, or about to be brought into use, as agricultural land, and that that use or proposed use as agricultural land is not, or is not solely, use as rough grazing for livestock, and
- (b) that the use or proposed use will be substantially prejudiced by the application of the provisions of the said section 60 of the Act of 1949, and
- (c) that the prejudicial effect outweighs the benefit arising from the facilities for access to open country conferred on the public by the said section 60,

then, subject to the provisions of this section, the Minister shall give a direction under this section as respects the land.

(4) Before coming to a conclusion on any representation under this section the Minister—

- (a) shall consult the Commission, and
- (b) shall either cause a local inquiry to be held or afford to the person by whom the representation was made, and to the local planning authority concerned, an opportunity of being heard by a person appointed by the Minister for the purpose,

and shall consider the report of the person by whom the inquiry was held or the person appointed as aforesaid, as the case may be.

(5) In determining whether the conditions specified in paragraphs (a), (b) and (c) of subsection (3) above are fulfilled the Minister shall have regard to any restrictions on the rights of the public imposed by the access order by virtue of section 60(3) of the Act of 1949; and the Minister may, if he thinks fit, instead of giving a direction under subsection (3) above, by order vary the access order so as to impose as respects the land any such restrictions or further restrictions authorised by the said section 60(3) as appear to him appropriate.

(6) All land within paragraph (a) of subsection (2) above shall be defined in the prescribed manner in the map to be contained, in pursuance of section 65(3) of the Act of 1949, in the

access order, and in the map to be kept under section 78 of the Act of 1949, and those maps shall from time to time be altered so as to take account of any direction given by the Minister under this section and so as to correct any errors or omissions made in defining that land.

(7) In subsection (2) above “ the relevant date ” means—

- (a) in relation to an access order made by a local planning authority, the date of the making of the order,
- (b) in relation to an access order made by the Minister, the date on which the Minister under paragraph 1(2) of Schedule 1 to the Act of 1949 gave notice or the first notice of his proposal to make the order.

18. For the purpose of preventing or restricting the conversion of land which is open country into excepted land within the meaning of section 60(5) of the Act of 1949, an access agreement under section 64 of the Act of 1949 may impose such restrictions on the exercise of rights over the land by the persons who can be bound by the agreement as appear to the local planning authority and the other parties to the agreement to be expedient.

Access agreements: undertakings by landowners and others not to convert land into excepted land.

19.—(1) Section 79 of the Act of 1949 (exclusion of woodlands from access orders and access agreements) shall be amended in accordance with this section.

Access to open country: protection for woodlands.

(2) It shall be one of the conditions in paragraph (a), and one of the conditions in paragraph (b), of section 79(1) of the Act of 1949 (conditions to be satisfied where woodland is to be excluded from an access order) that the prejudicial effect there mentioned (that is to say the prejudicial effect of the application of the provisions of section 60 of the Act of 1949 to the land) outweighs the benefit arising from the facilities for access to open country conferred on the public by the said section 60, and references to the said conditions in subsections (2), (3) and (5) of the said section 79 shall be construed accordingly.

(3) Before exercising any of his functions under the said section 79 the Minister shall consult the Commission.

(4) If under subsection (4) of the said section 79 the Minister affords to a person who has made a representation an opportunity of being heard by a person appointed by the Minister for the purpose, he shall afford the same opportunity to the local planning authority concerned.

(5) The amendments made by this section have effect in relation to any representation or objection made after the coming into force of this section.

Access to open country: contributions by local planning authorities to persons displaying maps and notices.

20. A local planning authority shall have power, as respects any land in their area which is subject to an access agreement or order, to defray or contribute towards, or to undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person interested therein in displaying, at places where the public obtain access to any such land—

- (a) any reproduction of the relevant map prepared by the local planning authority under section 78 of the Act of 1949, or
- (b) any notice specifying restrictions on access to the land or any part thereof.

Amendments of Act of 1949.

21.—(1) Section 11(3) of the Act of 1949 (general powers of local planning authorities in National Parks: exclusion of powers under other Acts) shall cease to have effect.

(2) In section 51(1) of the Act of 1949 (general provisions as to long distance routes) after the word “horseback” there shall be inserted the words “or on a bicycle not being a motor vehicle”.

(3) In section 73(1) of the Act of 1949 (access orders: compensation payable earlier on the ground of special circumstances whereby the postponement of compensation will cause undue hardship) the words from “whereby” to “undue hardship” shall cease to have effect.

(4) In section 86(1)(b) of the Act of 1949 (information services to be provided by Commission) after the word “architectural” there shall be inserted the word “archaeological”.

(5) There shall be repealed so much of section 89(4) of the Act of 1949 as provides that the power under subsection (1) of that section (power to plant trees for preserving or enhancing natural beauty) does not include power to do anything which the council of a county, county borough or county district are or can be authorised to do by any other enactment.

(6) The definition of the expression “open-air recreation” in section 114(1) of the Act of 1949 (which excludes organised games from that expression) shall apply only for the purposes of Part V of that Act.

(7) In subsection (2) of the said section 114 (definition of preservation of natural beauty) for the words “the characteristic natural features, flora and fauna thereof” there shall be substituted the words “its flora, fauna and geological and physio-graphical features”, and (with a view to facilitating the consolidation of the appropriate parts of this Act and the Act of

1949) references in the Act of 1949 to the preservation of the natural beauty of an area shall be construed in the same way as references in this Act to the conservation of the natural beauty of an area.

Water undertakers' reservoirs and other waters

22.—(1) Statutory water undertakers may, if it appears to them reasonable to do so—

Recreational facilities at water undertakers' reservoirs and other waters.

(a) permit the use by members of the public, for the purposes of any form of recreation which the undertakers consider appropriate, of any reservoir or other waterway owned or managed by the undertakers, and of any land held with the waterway,

(b) provide, or otherwise make available, facilities or services for persons resorting to any such waterway for the purposes of any such form of recreation.

(2) For the purposes of subsection (1) above statutory water undertakers may set apart any land held by them and may provide, improve, alter, renew and maintain such buildings and other works and do such other things as may be necessary or expedient; and subsections (1) and (2) of section 271 of the Public Health Act 1936 (interpretation of "provide") shall apply for the construction of the foregoing provisions of this section as if all statutory water undertakers were councils and as if this section formed part of that Act. 1936 c. 49.

(3) Statutory water undertakers may, if they think fit, make such reasonable charges as they may determine in respect of the use for the purposes of recreation, of any waterway or any land held with the waterway, and the use of any facilities or services made available by the water undertakers under subsections (1) and (2) above.

(4) Statutory water undertakers may let to any person, for such consideration and on such terms and conditions as they think fit, any works constructed by them for the purpose of providing facilities or services under subsections (1) and (2) above, and may authorise that person to make such reasonable charges as the undertakers may determine in respect of the use of the works.

(5) The powers of undertakers under subsections (1) and (2) above shall, in the case of a waterway which they manage but do not own, be exercisable only with the consent of the owners of the waterway.

(6) Statutory water undertakers may make byelaws with respect to any waterway owned or managed by them and any land held with the waterway, for the preservation of order, for

the prevention of damage to land held with the waterway, or anything on or in the waterway or such land, and for securing that persons resorting to the waterway or such land will so behave themselves as to avoid undue interference with the enjoyment of the waterway or land by other persons, including (without prejudice to the generality of the foregoing provisions of this subsection) byelaws—

- (a) regulating sailing, boating, bathing and fishing and other forms of recreation,
- (b) prohibiting the use of the waterway by boats which are not for the time being registered with the undertakers in such manner as the byelaws may provide,
- (c) preventing the passing into the water of any sewage or other offensive or injurious matter, whether solid or fluid,
- (d) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution,

and the byelaws may authorise the making of reasonable charges in respect of the registration of boats in pursuance of the byelaws.

1945 c. 42.

(7) Section 19 (without subsection (6)(b)) and section 20 of the Water Act 1945 shall apply to byelaws made under subsection (6) above, and shall so apply as if the byelaws were made under section 17 of that Act.

(8) Paragraphs (c) and (d) of subsection (6) above are without prejudice to the powers of making byelaws under section 18 of the Water Act 1945 (water pollution).

(9) Where, by provision contained in, or having effect under, any enactment concerning a reservoir or other waterway owned or managed by statutory water undertakers, some other statutory water undertakers are liable to contribute to the costs of constructing, operating and maintaining the reservoir or other waterway, the undertakers may make arrangements for sharing any expenditure incurred in, and any receipts arising from, the exercise of the powers conferred by this section.

Trees and woodlands

Provision of facilities by Forestry Commissioners.

23.—(1) The Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 (in this section referred to as “the Commissioners”) shall have the powers conferred on them by this section.

(2) The Commissioners may, on any land placed at their disposal by the Minister of Agriculture, Fisheries and Food or the Secretary of State for Wales, provide, or arrange for or

assist in the provision of, tourist, recreational or sporting facilities and any equipment, facilities or works ancillary thereto, including without prejudice to that generality—

- (a) accommodation for visitors,
- (b) camping sites and caravan sites,
- (c) places for meals and refreshments,
- (d) picnic places, places for enjoying views, parking places, routes for nature study and footpaths,
- (e) information and display centres,
- (f) shops in connection with any of the aforesaid facilities,
- (g) public conveniences,

and the Commissioners shall have power to make such charges as they think fit in connection with any of those facilities.

In this subsection “provide” includes manage, maintain and improve.

(3) The power of the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales under section 39 of the Forestry Act 1967 to acquire land shall include power to acquire land in proximity to land placed by him at the disposal of the Commissioners where it appears to him that the land which it is proposed to acquire is reasonably required by the Commissioners for the provision of such facilities as are mentioned in subsection (2) above. 1967 c. 10.

Either of the said Ministers shall have power to dispose of land acquired by him, whether by way of sale, lease or exchange, where in his opinion it is no longer so required, or where in his opinion the disposal is desirable for the purpose of securing the provision of any of those facilities by any other body or person.

(4) The Commissioners' powers to make byelaws under section 46 of the Forestry Act 1967 shall include power to make byelaws for regulating the reasonable use by the public of the facilities described in subsection (2) above, and in relation to any such matter as is described in section 41(3) of this Act.

(5) The Countryside Commission shall have power to act as agent for the Commissioners in the exercise of their powers under subsection (2) above.

(6) All expenses incurred by the Commissioners in the exercise of their powers under this section shall be paid out of the Forestry Fund, and all sums received by the Commissioners in the exercise of their powers under this section shall be paid into the Forestry Fund.

Amendments
of Forestry
Act 1967.
1967 c. 10.

24.—(1) Without prejudice to the provisions of section 11 of this Act, the said Commissioners may, on any land placed at their disposal by the Minister (as defined in the Forestry Act 1967), plant, care for and manage trees in the interests of amenity, and in section 3(1) of the Forestry Act 1967 (management of forestry land) the reference to the Commissioners' functions under that Act shall include a reference to their functions under this subsection.

(2) The said Minister may acquire, whether by purchase, feu, lease, exchange or excambion, land which in his opinion ought to be used for planting trees in the interests of amenity, or partly for that purpose and partly for afforestation, together with any other land which must necessarily be acquired therewith, and may place any land acquired by him under this subsection at the disposal of the Commissioners.

(3) The said Minister shall have power to dispose of land acquired by him under this section, whether by sale, feu, lease, exchange or excambion, where in his opinion it is no longer required by him for the purpose for which it was acquired.

(4) The definition of "public open space" in section 9(6) of the Forestry Act 1967 shall not include a country park provided under section 7 of this Act, or a park or pleasure ground in the Lee Valley Regional Park which in the opinion of the Minister serves the purpose set out in section 6(1) of this Act when the considerations in paragraphs (a) and (b) of that subsection are taken into account.

(5) This section shall be construed as one with the Forestry Act 1967, and that Act shall have effect as if subsections (2) and (3) above formed part of section 39 of that Act.

Tree
preservation
orders:
provision for
compensation.

25.—(1) This section has effect where in pursuance of provision made by a tree preservation order a direction is given, by the local planning authority or the Minister, for securing the re-planting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.

(2) If the Forestry Commissioners decide not to make any advance under section 4 of the Forestry Act 1967 in respect of the re-planting and come to that decision on the ground that the direction frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the direction.

(3) The Forestry Commissioners shall, at the request of the person under a duty to comply with the direction, give a certificate stating whether they have decided not to make any such advance and, if so, the grounds of their decision.

(4) A claim for compensation under this section must be served on the local planning authority within twelve months from the date on which the direction was given, or where an appeal has been made to the Minister against the decision of the local planning authority, from the date of the decision of the Minister on the appeal, but subject in either case to such extension of that period as the local planning authority may allow.

(5) Any question of disputed compensation under this section shall be determined in accordance with section 128 of the Town and Country Planning Act 1962 (reference to Lands Tribunal 1962 c. 38. Tribunal).

(6) This section shall be construed as one with Part III of the Town and Country Planning Act 1962, and section 3(6) of that Act (references in Part III to local planning authority to include references to any other authority to whom functions have been delegated) shall apply accordingly.

(7) The terms of any delegation of functions by a local planning authority effected in pursuance of the said section 3 before the coming into force of this section may be varied, so as to take account of any liability under this section of a local authority to whom functions have been so delegated, in such manner as the local planning authority and the other local authority may agree, or, if they fail to agree, as may be determined by the Minister.

(8) This section, without subsections (5) to (7), shall apply to Scotland subject to the following modifications—

- (a) references to a direction given in pursuance of provision made by a tree preservation order shall be construed as references to a requirement imposed by or under such an order ;
- (b) for any reference to the Minister there shall be substituted a reference to the Secretary of State ;
- (c) references in subsection (4) to an appeal against the decision of a local planning authority shall be construed as references to an application for the determination of any question relating to the reasonableness of a requirement ;
- (d) any question of disputed compensation shall be determined in accordance with section 70 of the Countryside 1967 c. 86. (Scotland) Act 1967 ;

and shall be construed as one with Part II of the Town and Country Planning (Scotland) Act 1947 c. 53.

1967 c. 86.

(9) Section 67 of the Countryside (Scotland) Act 1967 (grants to local authorities) shall have effect in relation to the expenditure of a local planning authority in Scotland in or in connection with paying compensation under this section as it has effect in relation to the expenditure mentioned in that section.

Tree preservation orders: compensation under Planning Acts.
1962 c. 38.
1947 c. 43.

26. In section 125(1) of the Town and Country Planning Act 1962, so far as it relates to tree preservation orders, and in section 26(2) of the Town and Country Planning (Scotland) Act 1947 (both of which sections provide for compensation for refusal of consent under tree preservation orders) for the words "damage or expenditure" there shall be substituted "loss or damage".

Public rights of way

Signposting of footpaths and bridleways.

27.—(1) A highway authority, after consultation with the owner or occupier of the land concerned, shall have power to erect and maintain signposts along any footpath or bridleway for which they are the highway authority.

(2) Subject to subsection (3) below, at every point where a footpath or bridleway leaves a metalled road the highway authority shall in exercise of their power under subsection (1) above erect and maintain a signpost—

- (a) indicating that the footpath or bridleway is a public footpath or bridleway, and
- (b) showing, so far as the highway authority consider convenient and appropriate, where the footpath or bridleway leads, and the distance to any place or places named on the signpost.

(3) A highway authority need not erect a signpost in accordance with subsection (2) above at a particular site if the highway authority, after consulting the council of the parish in which the site is situated, or as the case may be the chairman of the parish meeting for the parish, not having a parish council, in which the site is situated, are satisfied that it is not necessary, and if the parish council, or as the case may be the chairman of the parish meeting, agree.

(4) It shall also be the duty of a highway authority in exercise of their powers under subsection (1) above to erect such signposts as may in the opinion of the highway authority be required to assist persons unfamiliar with the locality to follow the course of a footpath or bridleway.

(5) With the consent of the highway authority, any other person may erect and maintain signposts along a footpath or bridleway.

(6) Section 117(2)(c) of the Highways Act 1959 (destruction, 1959 c. 25. damage or defacement of a traffic sign) shall apply to a signpost erected or placed along a footpath or bridleway in pursuance of this section as it applies to a traffic sign placed on or near a highway, and in section 63 of the Road Traffic Regulation Act 1967 (power to enter on land) “ traffic signs ” shall include signposts for footpaths and bridleways. 1967 c. 76.

(7) In this section (and in the amendments made by this section in other enactments) references to signposts shall include references to other signs or notices serving the same purpose and references to the erection of a signpost shall include references to positioning any such other sign or notice.

28.—(1) Any stile, gate or other similar structure across a footpath or bridleway shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of the persons using the footpath or bridleway. Duty to maintain stiles, etc., on footpaths and bridleways.

(2) If it appears to the highway authority for the footpath or bridleway that the duty imposed by subsection (1) above is not being complied with, the highway authority, after giving to the owner and occupier not less than fourteen days' notice of their intention, may take all necessary steps for repairing and making good the stile, gate or other works, and may recover from the owner of the land the amount of any expenses reasonably incurred by the highway authority in and in connection with the exercise of their powers under this subsection, or such part of those expenses as the highway authority think fit.

(3) The highway authority shall contribute not less than a quarter of any expenses shown to their satisfaction to have been reasonably incurred in compliance with subsection (1) above, and shall have power to make further contributions of such amount in each case as they shall, having regard to all the circumstances, consider reasonable.

(4) Subsection (1) above shall not apply to any structure if and so long as the highway authority are, under an agreement in writing with any other person, liable to maintain the structure, or if any conditions for the maintenance of the structure are for the time being in force under section 126 of the Highways Act 1959 (authority for erection of stiles etc.).

(5) This section shall be construed as one with the Highways Act 1959.

29.—(1) Subject to subsection (2) of this section, the duty to make good the surface of a footpath or bridleway imposed by section 119(3) of the Highways Act 1959 (ploughing of footpath or bridleway) shall be carried out not later than six weeks from Ploughing of footpath or bridleway.

the date of the giving of the notice of intention to plough required by subsection (2) of the said section 119, or if, in contravention of the said subsection (2), no such notice was given, not later than three weeks from the time when the occupier began to plough the footpath or bridleway in pursuance of the said section 119.

(2) If on the application of the occupier the highway authority are satisfied that it is expedient in the interests of good farming that the period of six or three weeks mentioned in subsection (1) of this section should be extended the highway authority may—

- (a) order the temporary diversion of the path or way until such date as may be specified in the order, being a date not more than three months after the time when the occupier began to plough the footpath or bridleway, and
- (b) by the order extend the period of six weeks or three weeks mentioned in subsection (1) of this section so as to expire on that date.

(3) On the making of the order the highway authority shall forthwith cause a copy of the order to be displayed in a prominent position at the ends of the diversion.

(4) In deciding whether to make an order under subsection (2) of this section a highway authority shall take into account the interests of the users of the path or way, and the highway authority shall before refusing to make an order under subsection (2) of this section consult the Minister of Agriculture, Fisheries and Food.

(5) An order under this section diverting a path or way—

- (a) shall not affect the line of the path or way on land not occupied by the applicant,
- (b) shall not divert any part of the path or way on to land not occupied by the applicant, unless written consent to the making of the order has been given by the occupier of that land, and by any other person whose consent is needed to obtain access to the land,
- (c) may require as a condition of the taking effect of the order the provision of any necessary facilities for the convenient use of the diversion,

and the highway authority may enter into an agreement with the applicant for the provision of any such facilities by the highway authority at the expense of the applicant.

(6) The said section 119 shall not apply to so much of a footpath or bridleway as follows what are for the time being the headlands or sides of a field or enclosure.

(7) If a footpath or bridleway is ploughed, and the occupier has no right to plough it, or if there is a failure to comply with subsection (3) of the said section 119, the highway authority, after giving to the occupier not less than fourteen days' notice of their intention, may take all necessary steps for making good the surface of the path or way so as to make it reasonably convenient for the exercise of the public right of way, and may recover from the occupier the amount of any expenses reasonably incurred by the highway authority in and in connection with the exercise of their powers under this subsection.

(8) Subsection (1) of this section shall bind the Crown.

(9) This section shall be construed as one with the Highways 1959 c. 25. Act 1959.

30.—(1) Any member of the public shall have, as a right of way, the right to ride a bicycle, not being a motor vehicle, on any bridleway, but in exercising that right way to pedestrians and persons on horseback. Riding of pedal bicycles on bridleways.

(2) Subsection (1) above has effect subject to any orders made by a local authority, and to any byelaws.

(3) The rights conferred by this section shall not affect the obligations of the highway authority, or of any other person, as respects the maintenance of the bridleway, and this section shall not create any obligation to do anything to facilitate the use of the bridleway by cyclists.

(4) Subsection (1) above shall not affect any definition of "bridleway" in this or any other Act.

(5) In this section "motor vehicle" has the same meaning as in the Road Traffic Act 1960.

1960 c. 16.

(6) It is hereby declared that sections 9, 10, 11 and 13 of the said Act of 1960 (offences connected with riding of bicycles) apply to bridleways as being highways which are "roads" within the meaning of that Act.

(7) Section 12(1) of the said Act (prohibition of cycle racing on highways) shall have effect as if the expression "public highway" included a bridleway, but without the exception for a race or trial authorised by regulations under that section.

31. The Acts mentioned in Schedule 3 to this Act shall be amended in accordance with that Schedule.

Public paths; amendments as respects procedural and minor matters.

Traffic regulation orders

32.—(1) This section has effect in England and Wales, exclusive of Greater London, as respects roads in, or forming part of, or adjacent to or contiguous with—

Traffic regulation orders for special areas in the countryside.

(a) a National Park,

- (b) an area of outstanding natural beauty,
- (c) a country park provided under section 7(1) of this Act which in the opinion of the Minister serves the purpose set out in section 6(1) of this Act when the considerations in paragraphs (a) and (b) of that subsection are taken into account, and any park or pleasure ground in the Lee Valley Regional Park which in the opinion of the Minister serves that purpose,
- (d) an area in which the Commission are conducting a project or scheme under section 4 of this Act,
- (e) a long distance route,
- (f) a nature reserve or an area subject to an agreement under section 15 of this Act,
- (g) land belonging to the National Trust which is held by the Trust inalienably,

and has effect in Scotland as respects roads in the countryside within the meaning of the Countryside (Scotland) Act 1967.

1967 c. 86.

1967 c. 76.

(2) The Road Traffic Regulation Act 1967 shall have effect as respects such roads as if the list of purposes for which a traffic regulation order may be made under section 1 of that Act as set out in the paragraphs of subsection (1) of that section, included the purpose of conserving or enhancing the natural beauty of the area, or of affording better opportunities for the public to enjoy the amenities of the area, or recreation or the study of nature in the area.

(3) Subject to subsection (4) below, in the case of any such road as aforesaid which is not a trunk road, the appropriate Minister may by order under this subsection make as respects that road for the purpose specified in subsection (2) above any such provision as he might have so made by an order under section 1 of the Road Traffic Regulation Act 1967 if that road had been a trunk road, and that Act shall apply to an order under this subsection as respects any road as it applies to an order under the said section 1 as respects a road which is for the time being a trunk road.

(4) The Commission, or as the case may be, the Countryside Commission for Scotland, may, if they think fit, make submissions to the appropriate Minister as to the desirability of making an order as respects any road under subsection (3) above or, if that road is a trunk road, under section 1 of the Road Traffic Regulation Act 1967; and the appropriate Minister shall not make an order under the said subsection (3) as respects any road except after receiving such a submission with respect to that road and after consultation with the authority having power to make an order as respects that road under the said section 1.

(5) Subject to the following provisions of this section, section 1 of the Road Traffic Regulation Act 1967, as applied for 1967 c. 76. the purposes set out in subsection (2) above, shall have effect so as to authorise the making of traffic regulation orders as respects Crown roads, and orders (hereafter also referred to as "traffic regulation orders") may be made under subsection (3) above as respects Crown roads.

(6) The consent of the appropriate Crown authority must be given before a traffic regulation order is made as respects a Crown road.

(7) A traffic regulation order made as respects a Crown road, notwithstanding section 97 of the said Act of 1967, shall not apply to vehicles or persons in the public service of the Crown except so far as is expressly provided in the order, and the inclusion of any such express provision in an order not made by a Minister shall require the approval of the appropriate Minister.

(8) If a traffic regulation order is or is to be made as respects a Crown road, the local authority concerned may, after consultation with the appropriate Crown authority, place and maintain, or cause to be placed and maintained, such traffic signs of any type prescribed, or authorised, under section 54 of the said Act of 1967 as the local authority may consider necessary in connection with the order.

The powers conferred by this subsection shall be exercisable subject to and in conformity with any general directions given under section 55(1) of the said Act of 1967, and any other power conferred by the said section 55 to give directions to a highway authority shall include power to give the like directions to the local authority concerned as respects the Crown road, but after consultation with the appropriate Crown authority.

(9) The appropriate Minister may, after consulting the appropriate Crown authority, give directions to the local authority concerned with any Crown road requiring the local authority to remove, or cause to be removed, any traffic sign, within the meaning of the said Act of 1967, or any other object or device (whether fixed or portable) for the guidance or direction of persons using roads, on or in the vicinity of the road, and section 63 of the said Act of 1967 (power to enter on land) shall apply as if this subsection formed part of section 61 of that Act.

(10) In this section—

"the appropriate Crown authority", in relation to any land, has the same meaning as "the appropriate authority" as defined by section 101(11) of the Act of 1949,

“ the appropriate Minister ” means, as respects Scotland or Wales and Monmouthshire the Secretary of State, and otherwise means the Minister of Transport,

“ Crown road ” means a road, other than a highway, to which the public have access by permission granted by the appropriate Crown authority, or otherwise granted by or on behalf of the Crown,

1967 c. 76.

“ local authority concerned ”, in relation to a Crown road, means the authority having power to make an order as respects that road under section 1 of the Road Traffic Regulation Act 1967 as extended by this section,

“ road ” has the meaning given by section 104 of the Road Traffic Regulation Act 1967,

and any reference in this section to the Road Traffic Regulation Act 1967 shall be construed as a reference to that Act as for the time being in force.

(11) Sections 93 and 94 of the Act of 1949 (restriction of traffic on roads in National Parks, etc.) shall cease to have effect.

Financial

Exchequer grants for country parks.

33.—(1) The Minister may with the consent of the Treasury make Exchequer grants to local authorities in respect of expenditure incurred by them—

- (a) in or in connection with the acquisition of land for the purposes of a country park provided under section 7 of this Act (hereafter in this section referred to as “ a country park ”),
- (b) in or in connection with the erection of buildings and the carrying out of works (including the provision of parking places and means of access) in, or to be used for the purposes of, a country park, or in connection with the restoration, repair or adaptation of any such buildings or works (whether or not provided by the local authority),
- (c) by way of payment towards capital expenditure incurred by an owner of land which, under arrangements made with the local authority, is used as or as part of a country park,
- (d) in or in connection with the collection of litter in a country park, and its disposal,
- (e) in the exercise of their powers under section 28 of the Town and Country Planning Act 1962 (discontinuance of or modification of uses of land and alteration or

1962 c. 38.

removal of buildings) as respects land in, or to be acquired for the purposes of, a country park provided by them or any other local authority.

(2) Where in consequence of an order made under the said section 28 of the Town and Country Planning Act 1962, a purchase notice is served under section 136 of that Act, then if the interest in respect of which the notice is served is purchased in accordance with Part VIII of that Act or compensation is payable in respect thereof under section 134(2) of that Act, expenditure incurred in the purchase of the interest or the payment of the compensation shall be treated for the purposes of this section as if it were expenditure incurred in the exercise of powers under the said section 28. 1962 c. 38.

34.—(1) The Minister may with the consent of the Treasury Exchequer grants for countryside. make Exchequer grants to local authorities in respect of expenditure incurred by them falling under any of the following heads.

1. Expenditure under section 9 of this Act, and expenditure in or in connection with the acquisition of land for the purposes of the section.
2. Expenditure under section 10 of this Act as respects a camping site provided mainly as a stopping-place for those on their way to or from the place or area where they spend their holidays and expenditure in or in connection with the acquisition of land for the purposes of such a site.
3. Expenditure under section 24 of the Caravan Sites and Control of Development Act 1960 as respects a caravan site in the countryside provided mainly as a stopping-place for those on their way to or from the place or area where they spend their holidays and expenditure in or in connection with the acquisition of land for the purposes of such a site. 1960 c. 62.
4. Expenditure under section 10 of this Act as respects a picnic site, and expenditure in or in connection with the acquisition of land for the purposes of such a site.
5. Expenditure under section 12(2) of this Act.
6. Expenditure under the Act of 1949 for the purposes of Part V of that Act (access to open country), including expenditure in or in connection with the acquisition of land for the purposes of the said Part V, and expenditure under section 20 of this Act.

7. Expenditure in paying compensation under section 25 of this Act.
8. As respects land in the countryside, expenditure under section 89(1) of the Act of 1949 (tree-planting), and expenditure in or in connection with the acquisition of land for the purposes of the functions conferred by the said section 89(1).
9. Expenditure under section 92 of the Act of 1949 (appointment of wardens).
10. Where the local authority are acting in pursuance of a scheme approved by the Minister for the removal of things disfiguring the countryside, expenditure under any enactment.

1962 c. 38.

(2) Where a local authority acting in pursuance of a scheme approved by the Minister for the removal of things disfiguring the countryside make an order under section 28 of the Town and Country Planning Act 1962, and a purchase notice is served under section 136 of that Act, then if the interest in respect of which the notice is served is purchased in accordance with Part VIII of that Act or compensation is payable in respect thereof under section 134(2) of that Act, expenditure incurred in the purchase of the interest or the payment of the compensation shall be treated for the purposes of head 10 in subsection (1) above as if it were expenditure incurred in the exercise of powers under the said section 28.

(3) Exchequer grants shall not be payable under this section in respect of expenditure incurred before the passing of this Act.

(4) As respects expenditure incurred after the end of the financial year in which this Act is passed, so much of section 97 of the Act of 1949 as authorises the making of grant in respect of expenditure eligible for grant under this section shall cease to have effect, and no grant shall be paid under this section in respect of expenditure (incurred before the end of the said financial year) eligible for grant under the said section 97.

Exchequer grants for Lee Valley Regional Park.
1966 c. xli.

35.—(1) Section 33 of this Act shall apply to any park or pleasure ground provided by the Lee Valley Regional Park Authority in exercise of their powers under the Lee Valley Regional Park Act 1966 which in the opinion of the Minister serves the purpose set out in section 6(1) of this Act when the considerations in paragraphs (a) and (b) of that subsection are taken into account as it applies to a country park provided under section 7.

(2) In section 34(1) of this Act—

(a) heads 2 and 4 shall have effect, in relation to expenditure incurred by the said Authority, as if for references to section 10 of this Act there were substituted references to the said Act of 1966, and

(b) head 3 shall have effect, in relation to expenditure incurred by the said Authority, as if for the reference to section 24 of the Caravan Sites and Control of Development Act 1960 there were substituted a reference to the said Act of 1966. 1960 c. 62.

(3) The Minister may with the consent of the Treasury make Exchequer grants to the said Authority in respect of expenditure incurred by the Authority under the said Act of 1966 and falling under any of the following heads.

1. As respects land in the countryside, expenditure which, if the Authority were a local planning authority, they could have incurred under section 89(1) of the Act of 1949 for the purpose of planting trees on land in their area for preserving or enhancing the natural beauty thereof, and expenditure in or in connection with the acquisition of land for that purpose.

2. Expenditure incurred by the Authority under section 31 of the said Act of 1966 (appointment of wardens or rangers) as respects any park or pleasure ground provided by the Authority which in the opinion of the Minister serves the purpose set out in section 6(1) of this Act when the considerations in paragraphs (a) and (b) of that subsection are taken into account, or as respects any picnic site.

(4) Exchequer grant shall not be payable by virtue of the foregoing provisions of this section as respects any expenditure incurred before the passing of this Act.

36.—(1) This section has effect as respects the making to local authorities of Exchequer grants under this Act and, for expenditure incurred after the end of the financial year in which this Act is passed, as respects the making of grants under section 97 of the Act of 1949 (grants for National Parks and areas of outstanding natural beauty). Exchequer grants : general provisions.

(2) The grants shall not exceed seventy-five per cent. of the amount of the expenditure in respect of which the grants are made.

(3) The grants shall only be payable in such cases as the Minister may approve and the Minister may give his approval either to a particular item of expenditure or to expenditure of a specified class or incurred in specified circumstances.

(4) Subject to subsection (2) above, grants shall be of such amounts and payable at such times and subject to such conditions as the Minister may from time to time determine, either generally or in the case of any particular local authority.

(5) The grants may be made either as periodical grants in respect of costs from time to time incurred, or treated as incurred, by a local authority in respect of the borrowing of money to defray expenditure qualifying for the grants, or as capital grants in respect of the expenditure or in substitution for such periodical grants.

(6) The Minister shall arrange for the making of recommendations by the Commission as to the making of the grants, and for consultation with the Commission by the Minister where he proposes to make a grant not recommended by the Commission, or not to make a grant recommended by them.

(7) For the purposes of any such grant—

(a) any land appropriated by a local authority for a purpose for which they may acquire land may be treated as acquired by the local authority for that purpose at a cost of such amount, and defrayed in such manner, as the Minister may determine,

(b) where expenditure eligible for any such grant is expenditure incurred by a local planning authority as respects land in or in the neighbourhood of a National Park in the exercise of any powers, any administrative expenses incurred by the local planning authority after the passing of this Act which are attributable to the exercise of those powers may be treated as part of the first-mentioned expenditure.

(8) In accordance with subsection (1) above, in subsection (1) of the said section 97 for the words preceding paragraphs (a) to (f) there shall be substituted the words "The Minister may with the consent of the Treasury make Exchequer grants to local authorities in respect of expenditure incurred by them in the exercise", and subsections (2), (3) and (4) of the said section 97 (which are superseded by the provisions of this section) shall cease to have effect, but not so as to affect the application of the said section 97 to expenditure incurred before the end of the financial year in which this Act is passed.

Supplemental

Protection
for interests in
countryside.

37. In the exercise of their functions under this Act and the Act of 1949 it shall be the duty of every Minister, and of the Commission, the Natural Environment Research Council and local authorities to have due regard to the needs of agriculture and forestry and to the economic and social interests of rural areas.

38. In the exercise of their functions under this Act and the Act of 1949 it shall be the duty of the Commission, the Forestry Commission and local authorities to have due regard to the protection against pollution of any water, whether on the surface or underground, which belongs to statutory water undertakers or which statutory water undertakers are for the time being authorised to take. Avoidance of pollution.

39. Schedule 4 to this Act shall have effect as respects the exercise by local authorities of functions relating to the countryside. Local authority committees and joint boards.

40.—(1) This section has effect as respects any National Park joint planning board, that is to say a joint planning board constituted under section 2 of the Town and Country Planning Act 1962 for an area which consists of or includes any part of a National Park. National parks joint planning board: expenses of members or officers.

(2) Any such board may defray— 1962 c. 38.

(a) any travelling or other expenses reasonably incurred by or on behalf of members or officers of the board, or of any committee of the board, in attending a conference or meeting convened by one or more local planning authorities whose areas includes the whole or part of a National Park, or by any association of such authorities, being a conference or meeting for the purpose of discussing any matter connected with the discharge of functions exercisable by local planning authorities in respect of National Parks ;

(b) any travelling or other expenses reasonably incurred by or on behalf of members or officers of the board, or of any committee of the board, in making official or courtesy visits, whether inside or outside the United Kingdom, on behalf of the board ;

(c) any expenses incurred in the reception and entertainment by way of official courtesy of distinguished persons residing in or visiting the board's area, and of persons representative of or connected with other local planning authorities or bodies concerned with matters relating to the countryside, whether inside or outside the United Kingdom, and in the supply of information to any such persons.

(3) In the case of a visit within the United Kingdom, the amount defrayed in respect of the expenses of a member of the board shall not exceed the payments which he would have been entitled to receive by way of travelling allowance or subsistence allowance under section 113 of the Local Government Act 1948 if the making of the visit had been an approved duty of that member within the meaning of that section. 1948 c. 26.

Power to make byelaws and related provisions about wardens.

41.—(1) A local authority may as respects—

- (a) a country park provided by the local authority under section 7 of this Act (on land belonging to the local authority or other land), or
- (b) any land as respects which the local authority have exercised powers conferred by section 9 of this Act, or
- (c) a picnic site provided by the local authority under section 10 of this Act,

make byelaws for the preservation of order, for the prevention of damage to the land or anything thereon or therein, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land by other persons.

(2) The Commission may as respects any land held by them for the purposes of section 4 of this Act, or as respects land to which the public have rights of access pursuant to an agreement under section 4(5)(b) of this Act, make byelaws for the preservation of order and the other purposes mentioned in subsection (1) above.

(3) Without prejudice to the generality of the foregoing provisions of this section, byelaws under those provisions—

- (a) may prohibit or restrict the use of the land or of any waterway comprised therein, either generally or in any manner specified in the byelaws, by traffic of any description so specified,
- (b) may contain provisions prohibiting the depositing of rubbish and the leaving of litter,
- (c) may regulate or prohibit the lighting of fires,
- (d) may regulate sailing, boating, bathing and fishing and other forms of recreation on waterways,
- (e) may prohibit the use of any waterway comprised in a country park by boats which are not for the time being registered with the local authority in such manner as the byelaws may provide,
- (f) may be made so as to relate either to the whole or to any part of the land or of any waterway comprised therein, and may make different provisions for different parts thereof,

and the byelaws may authorise the making of reasonable charges in respect of the registration of boats in pursuance of the byelaws.

(4) Byelaws made under this section shall not interfere with the exercise of any public right of way or of any functions relating to the land or waterway to which the byelaws apply which are exercisable by any authority under any enactment.

(5) Before a local authority make byelaws under the foregoing provisions of this section as respects a National Park or area of outstanding natural beauty, the local authority shall consult the Commission.

(6) A county council or county district council shall have power to enforce byelaws made under this section by another authority as respects land in the area of the council.

(7) Section 106 of the Act of 1949 (supplementary provisions as to byelaws) shall have effect as if byelaws under this section were byelaws under that Act.

(8) Subsections (1) and (2), and subject to the next following subsection subsection (4), of section 92 of the Act of 1949 (appointment of wardens for land for which byelaws may be made under section 90 of that Act) shall have effect as if the power of making byelaws conferred by this section was contained in the said section 90, and as if the Commission were a local authority.

(9) For the purposes of exercising any function conferred on him by the said section 92 as applied by subsection (8) above a warden appointed under that section may enter upon any land, or go on any waterway, as respects which byelaws under this section are in force, although the land or waterway does not belong to the local authority or the Commission.

(10) Sections 90, 91 and 92 of the Act of 1949 shall have effect as if any path which is a means of access to land to which the public are given access by an agreement or order, or in consequence of acquisition, under Part V of the Act of 1949 was included in that land.

(11) In subsection (10) above " path " means a public path, or a road used as a public path (as those expressions are defined in section 27(6) of the Act of 1949) or any other path, not being a highway at the side of a public road, which the public have the right to use, or are permitted to use, as a means of access to land to which the public are given access under Part V of the Act of 1949.

(12) Byelaws made under section 90(3) of the Act of 1949 shall not interfere with the exercise of any public right of way or with any authority having under any enactment functions relating to the land or waterway to which the byelaws apply.

42.—(1) A local planning authority whose area consists of or includes the whole or any part of a National Park may appoint such number of persons as may appear to the authority to be necessary or expedient to act as wardens as respects any land

1925 c. 20.

within the National Park to which section 193 of the Law of Property Act 1925 (common land) for the time being applies, whether or not within the area of the local planning authority.

(2) Before a local planning authority first exercise their powers under subsection (1) above as respects any land, they shall, if practicable, consult the person entitled to the soil of the land.

(3) The foregoing subsections shall be construed as one with section 92 of the Act of 1949 and shall be subject to subsection (4) of that section (saving for interests of landowners).

(4) The purposes for which wardens may be appointed by an authority under the said section 92 (as amended by this Act) as respects any land or waters are—

1958 c. 34.

(a) to secure compliance with any byelaws, with the provisions of the Litter Act 1958 and with any requirements imposed by or under section 193 of the Law of Property Act 1925,

(b) to advise and assist the public, and

(c) to perform such other duties (if any) in relation to the land or waters as the authority may determine.

This subsection shall have effect in substitution for subsection (2) of the said section 92.

General provisions as to local authority powers conferred by Act.

43.—(1) A local authority shall make available any facilities and services provided by them under this Act for those who do not normally reside in the area of the local authority as freely as for those who do.

(2) A local authority shall have power to make reasonable charges for any facilities or services provided by them under this Act and may arrange for any facilities or services which they have power to provide under this Act to be provided by some other person, and, where they make arrangements for any such facilities or services to be provided by some other person, may authorise that person to make reasonable charges.

(3) The services and facilities for which charges may be made under subsection (2) above include the use of any camping site, picnic site or parking place, of any waterway comprised in a country park, and of any part of a country park set aside for any particular form of recreation.

(4) Any power of a local authority under this Act to provide buildings or other premises for any purpose shall include power to equip them with such furniture and apparatus as may be reasonably necessary to enable them to be used for that purpose.

(5) Any power of a local authority under this Act to provide buildings or other premises, or any services or facilities, or

anything else, shall include power to enter into agreements with any other authority or person for the use, on such terms as may be agreed, of anything, or any facilities or services, provided by, or under the control of, that other authority or person and, if it appears convenient, for the services of any staff employed in connection therewith.

44.—(1) The Minister may, subject to the provisions of this section, by order repeal or amend any provision in any local Act passed before this Act and relating to any local authority where it appears to him that that provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act. Power to amend local Acts concerning local authorities.

(2) Before making an order under this section the Minister shall consult with each local authority affected by the proposed order.

(3) An order made under this section—

- (a) shall not repeal or amend any enactment so far as it relates to the water undertaking of a local authority,
- (b) may contain such transitional, supplemental or incidental provisions as appear to the Minister to be expedient, and
- (c) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

45.—(1) This section has effect as respects any power conferred by this Act on the Commission or any local authority to enter into agreements with landowners and other persons having interests in land. Agreements with landowners.

(2) Schedule 2 to the Forestry Act 1967 (powers of tenants for life and other limited owners to enter into forestry dedication covenants) shall apply to any such agreement as it applies to such a covenant. 1967 c. 10.

(3) Where a landowner, or other person having an interest in the land, by the agreement grants or agrees to grant any right as respects the land, the grant or agreement shall be binding upon any person deriving title or otherwise claiming under the grantor to the same extent as it is binding upon the grantor notwithstanding that it would not have been binding upon that person apart from the provisions of this subsection.

(4) Any such agreement may be made either irrevocably or subject to such provisions for revocation or variation as may be specified in the agreement.

(5) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across land at any time while it is the subject of any such agreement shall be disregarded.

Application] of general provisions of Act of 1949.

46.—(1) In the following provisions of the Act of 1949 references to that Act shall include references to this Act—

section 99(1) (power of local authority to contribute to expenses of another local authority),

section 103 (acquisition of land),

section 104 (appropriation and disposal of land by local authorities) but subject to Schedule 2 to this Act,

section 108 (entry to survey land in connection with its acquisition),

section 109 (local inquiries and service of documents),

section 111 (Isles of Scilly).

(2) In subsections (1) and (2) of the said section 103 of the Act of 1949 references to the Natural Environment Research Council shall include references to the Commission.

(3) In section 108(3) of the Act of 1949 (seven days' notice to be given of intended entry) for the words "seven days'" there shall be substituted the words "fourteen days'", and this amendment shall have effect both for the purposes of the Act of 1949 and of this Act.

(4) Section 112 of the Act of 1949 (Epping Forest and Burnham Beeches) shall have effect as if the provisions of this Act about experimental projects or schemes, country parks, common land and camping and picnic sites were mentioned in the said section 112(2).

(5) Section 113 of the Act of 1949 (National Trust Land) shall have effect as if the provisions of this Act about experimental projects or schemes, country parks, common land and camping and picnic sites were contained in Part VI of the Act of 1949.

Crown land.

47.—(1) The following provisions of this section shall have effect for applying certain provisions of this Act to Crown land, that is to say land an interest in which belongs to Her Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a Government department or is held in trust for Her Majesty for the purposes of a Government department.

(2) Any power under this Act to acquire land compulsorily may be exercised to acquire an interest in Crown land, other than one held by or on behalf of the Crown, but only with the consent of the appropriate authority.

(3) Subject to subsection (4) below, the appropriate authority may enter into an agreement under section 4(5)(b) or section 7(3)(b) of this Act as respects an interest in Crown land held by or on behalf of the Crown, and any such agreement as respects any other interest in Crown land shall not have effect unless approved by the appropriate authority.

(4) Notwithstanding anything in subsection (3) above—

(a) an agreement authorised by the said subsection (3) and made by any Government department shall be of no effect unless it is approved by the Treasury, and

(b) in considering whether to make or approve an agreement so authorised and relating to land belonging to a Government department or held in trust for Her Majesty for the purposes of a Government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

(5) Section 28 of this Act shall apply to Crown land if and so far as the appropriate authority consents to the application of that section to the land.

(6) If any land subject to an agreement to which section 45 of this Act applies becomes Crown land, subsection (3) of that section shall cease to apply to that agreement unless the appropriate authority consent to its continued application to the agreement.

(7) Byelaws made under this Act shall apply to Crown land if the appropriate authority consent to their application thereto.

(8) Section 101(11) of the Act of 1949 shall apply for the construction of references in this section to “the appropriate authority”.

(9) Agreements made by the Crown Estate Commissioners shall not require the approval of the Treasury under section 101(10)(a) of the Act of 1949 and accordingly in that paragraph, as originally enacted, the words “by the Commissioners of Crown Lands or” shall cease to have effect.

48.—(1) There shall be defrayed out of money provided by Parliament—

(a) any sums required for the payment of grants under this Act, or any other expenses of a Minister under this Act, and

Expenses and payments into Exchequer.

(b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

(2) There shall be paid into the Exchequer any sums required to be so paid in consequence of any of the provisions of this Act.

Interpretation. 49.—(1) Section 114 of the Act of 1949 shall apply for the construction of this Act.

(2) In this Act, unless the context otherwise requires—

1949 c. 97. “the Act of 1949” means the National Parks and Access to the Countryside Act 1949 ;

“boat” includes any hover vehicle or craft being a vehicle or craft designed to be supported on a cushion of air and which is used on or over water ;

1959 c. 25. “bridleway” and “footpath” have the meanings given by section 295(1) of the Highways Act 1959 ;

“land” includes any interest in or right over land ;

“the Minister”, as respects Wales and Monmouthshire, means the Secretary of State, and otherwise means the Minister of Housing and Local Government ;

“public body” includes any local authority or statutory undertaker, and any trustees, commissioners, board or other persons, who, as a public body and not for their own profit, act under any enactment for the improvement of any place or the production or supply of any commodity or service ;

1963 c. 38. “river authority” means a river authority constituted by or under the Water Resources Act 1963 and the Conservators of the River Thames, the Lee Conservancy Catchment Board and the Isle of Wight River and Water Authority ;

1945 c. 42. “statutory water undertakers” has the same meaning as in the provisions of the Water Act 1945, other than Part II of that Act.

(3) In this Act “parish” means a rural parish and references to a parish and a parish council shall be construed as including references to a borough which has been included in a rural district and the council of such a borough respectively.

(4) References in this Act to the conservation of the natural beauty of an area shall be construed as including references to the conservation of its flora, fauna and geological and physio-graphical features.

50.—(1) This Act may be cited as the Countryside Act 1968. Short title,

(2) The enactments mentioned in Schedule 5 to this Act shall be repealed to the extent specified in the third column of that Schedule. ^{repeals,} ^{commencement} and extent.

(3) This Act shall come into force at the expiration of a period of one month beginning with the date on which it is passed.

(4) The provisions of this Act amending or repealing any provision of the House of Commons Disqualification Act 1957 1957 c. 20. extend to Scotland and Northern Ireland.

(5) This Act, except subsections (1), (3) and (4) of this section, sections 15, 24, 25, 26, 32, 37, 46(3) and so much of sections 46(1), 48, and 49 as relates to the first-mentioned sections, shall not extend to Scotland, and subject to subsection (4) above this Act shall not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

PROPOSALS SUBMITTED TO STATUTORY UNDERTAKERS AND OTHER AUTHORITIES

1. This Schedule has effect where any authority are consulted in accordance with section 8, section 12(4) or section 16(7) of this Act.

2.—(1) If the authority withhold their consent to the proposals about which they are consulted, the proposals shall not be proceeded with unless, on an application in that behalf specifying the proposals and the grounds for withholding consent, the Minister so directs, and subject to any conditions or modifications specified in the direction.

(2) Before giving a direction under this paragraph the Minister shall afford to the objecting authority, and the authority by whom the proposals are made, an opportunity of being heard by a person appointed by him for the purpose, and shall consider that person's report.

(3) This Schedule shall apply with the necessary modifications where the Minister in accordance with section 16(8) of this Act consults any authority as respects an access order to be made by him.

Section 9.

SCHEDULE 2

PROCEDURE FOR TAKING COMMON LAND

1.—(1) For the purpose of enabling a local authority to exercise their powers under the principal section on land taken out of the common land the Minister may in accordance with this Schedule authorise a local authority to acquire any part of the common land, including all commonable and other rights in or over the land, and, where the local authority already hold the land, to appropriate that land for the purposes of the principal section.

(2) Where the local authority already hold the land, but subject to any commonable or other rights in or over the land, they shall not appropriate the land until they have, under sub-paragraph (1) above, acquired all those rights.

(3) Land acquired or appropriated as authorised under this paragraph shall be held by the local authority free from the public right of access, but shall be used for the benefit of the public resorting to the common land.

(4) The Minister shall not give his authority under this paragraph unless he is satisfied—

(a) that there has been or will be given in exchange for the land other land, not being less in area and being equally advantageous to the persons, if any, entitled to commonable and other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land taken was vested, and subject to the like rights, trusts and incidents as attached to the land taken, or

- (b) that the giving in exchange of such other land is unnecessary, whether in the interests of the persons, if any, entitled to commonable or other rights or in the interests of the public.

SCH. 2

Preliminary notices

2.—(1) Before a local authority apply to the Minister for authority under paragraph 1 above as respects any part of the common land, they shall in two successive weeks publish in one or more newspapers circulating in the locality of the land a notice—

- (a) stating that the local authority propose to make the application ;
- (b) giving particulars of the land which it is proposed to take out of the common land ;
- (c) stating whether land has been or is to be given in exchange, and, if so, giving particulars of that land, and stating the respective areas of the land to be taken and of the land given or to be given in exchange.

(2) If all or any part of the land to be taken is in a parish, the local authority shall, not later than the time of first publication of the notice, serve a copy of the notice on the parish council or, in the case of a parish not having a parish council, on the chairman of the parish meeting.

(3) The notice shall name a place within the locality where a map showing the said land, and any land given or to be given in exchange, may be inspected, and shall specify the time (not being less than twenty-eight days from first publication of the notice) within which and the manner in which representations with respect to the proposals in the notice may be made to the Minister.

(4) The Minister shall before giving his decision on the application take into consideration every representation which has been duly made and which has not been withdrawn, and may if he thinks fit either afford to each person making such a representation an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, or cause a public inquiry to be held.

Compulsory purchase

3.—(1) A local authority shall have power to acquire compulsorily any land which is required by them for the purposes of their functions under the principal section, and which is part of the common land (or any commonable or other rights in or over that land), but the Minister shall not confirm a compulsory purchase order made in pursuance of this section except after giving his authority under paragraph 1 above as respects the land.

(2) Any notice which relates to a compulsory purchase order made in pursuance of this paragraph and which is published or served under paragraph 3 of Schedule 1 to the Acquisition of Land 1946 c. 49. (Authorisation Procedure) Act 1946 shall refer to the provisions of this Schedule and shall state whether land has been, or is to be, given in exchange.

SCH. 2

(3) The notice to be published under paragraph 2 of this Schedule may be combined with a notice to be published under the said paragraph 3 in the Act of 1946 in the same newspaper and relating to the same land.

(4) If land has been, or is to be, given in exchange—

(a) the notice to be published and served under the said paragraph 3 in the Act of 1946 shall give particulars of that land and state the respective areas of the land to be taken and of the land given or to be given in exchange,

(b) the map in the compulsory purchase order shall show that land,

(c) the compulsory purchase order may provide for vesting any land to be given in exchange in the persons, and subject to the rights, trusts and incidents, mentioned in paragraph 1(4) above.

(5) A compulsory purchase order made in pursuance of this paragraph may provide for discharging the land purchased from all rights, trusts and incidents to which it was previously subject.

(6) Paragraph 11 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 (special provisions for acquisition of common land) shall not apply to a compulsory purchase order made in pursuance of this paragraph, and section 22 of the Commons Act 1899 (consent of Minister required for purchase of common land) shall not apply to the acquisition of land in pursuance of such a compulsory purchase order.

1899 c. 30.

Acquisition by agreement and appropriation

4.—(1) A local authority shall not acquire by agreement, or appropriate, any common land for the purposes of the principal section except as authorised under paragraph 1 of this Schedule.

(2) Subject to sub-paragraph (1) above, a local authority may appropriate any common land for the purposes of the principal section without compliance with the provisions of section 163 of the Local Government Act 1933 or section 104 of the Act of 1949 as amended by section 23 of the Town and Country Planning Act 1959 (under which the approval of the Minister is required).

1933 c. 51.

1959 c. 53.

(3) On an appropriation of land under this paragraph such adjustment shall be made in the accounts of the local authority as the Minister may direct.

Power to override restrictions affecting common land

5. No restrictions applying to commons generally, or to any particular common, contained in or having effect under any enactment, and no trust subject to which the common land is held, shall prevent a local authority from taking part of common land in accordance with this Schedule.

Protection for statutory undertakers

6. References in this Schedule to commonable and other rights in or over common land shall not be taken as including references to any right vested in statutory undertakers for the purpose of the carrying on of their undertaking.

Interpretation

SCH. 2

7. In this Schedule "common land" has the meaning given by section 22(1) of the Commons Registration Act 1965.

1965 c. 64.

SCHEDULE 3

Section 31.

PUBLIC RIGHTS OF WAY

PART I

MISCELLANEOUS AMENDMENTS

ACT OF 1949

Section 29 (representations and objections as to draft maps and statements)

The Minister shall give an opportunity of being heard under subsection (6) (appeal to Minister), at the same time as to the appellant, to any other person appearing to the Minister to have an interest in the matter to which the appeal relates.

In paragraph (b) of the said subsection (6) (appeal against decision under subsection (4)) for the words "to reverse the decision" there shall be substituted the words "to vary or reverse the decision", and the particulars to be contained in the provisional map and statement in accordance with section 30(3) of the Act of 1949 shall reflect any such variation or reversal of the decision.

Section 33 (revision of maps and statements)

In carrying out a review under section 33(1) the authority shall have regard to the discovery by the authority, in the period mentioned in that subsection, of any new evidence, or of evidence not previously considered by the authority concerned, showing that there was no public right of way over land shown on the map as a public path, or as a road used as a public path, or that any other particulars in the map or statement were not within the powers of Part IV of the Act of 1949, and their powers of preparing a revised map and statement under subsection (4) or as the case may be proviso (d) to subsection (5), of the said section 33 may be exercised accordingly:

Provided that the authority shall not take account of the evidence if satisfied that the person prejudiced by the public right of way, or his predecessor in title, could have produced the evidence before the relevant date mentioned in the said section 33(1) and had no reasonable excuse for failing to do so.

This amendment applies to a review begun before or after the coming into force of this Act.

Section 38(2) (places where maps and statements are to be available for inspection)

The places at which the maps and statements described in section 38(2) are to be available for inspection shall include the offices of the council of each county district comprised in the area to which the map and statement relates, whether or not the offices are in the county district.

SCH. 3

WATER ACT 1945

(1945 c. 42)

Section 23 (orders authorising construction of works, etc.)

The applicant for an order under section 23 which would authorise the stopping up or diversion of a footpath or bridleway shall, not later than the date on which the notice required by paragraph 1 of Part I of Schedule 1 to the Act is first published, cause a copy of the notice to be displayed in a prominent position at the ends of the part of the path or way to be stopped up or diverted.

ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT 1946

(1946 c. 49)

Section 3 (power to extinguish certain public rights of way)

1. Section 3(1) shall have effect with the substitution for references to the Minister of references to the acquiring authority.

2. In the case of an order under section 3(1) extinguishing a right of way (but not an order reviving a right of way)—

(a) the order shall not take effect unless confirmed by the Minister, as defined in this Act, or unless confirmed, as an unopposed order, by the acquiring authority,

(b) the Minister shall not confirm the order unless satisfied as to the matters set out in section 3(1),

(c) the time specified in the order as the time from which the right of way is extinguished shall not be earlier than confirmation of the order,

1959 c. 25.

(d) Schedule 7 to the Highways Act 1959, as amended below, shall have effect as to the making, confirmation, validity and date of operation of the order,

but paragraphs (a), (b) and (c) above shall not apply where the acquiring authority is the Minister.

1958 c. 69.

3. These amendments of section 3 of the Act of 1946 shall not affect that section as applied by section 15 of the Opencast Coal Act 1958 (suspension of rights of way).

4. These amendments of the said section 3 shall not apply in relation to an order if made before the date of the coming into force of this Act, or if a notice relating to the order was published pursuant to subsection (2) of the said section 3 before that date.

HIGHWAYS ACT 1959

(1959 c. 25)

Sections 27 and 28 (creation of footpaths)

In sections 27 and 28 "local authority" shall include any county council, and any joint planning board, being a board for an area which comprises any part of a National Park, but before a county council or joint planning board exercise any power under either of those sections over any land they shall consult the council of any county borough or county district comprising any part of that land.

This amendment shall not affect section 29 (exercise by other authorities of powers under sections 27 and 28) and accordingly this amendment shall not require a county council or local planning authority exercising powers by virtue of the said section 29 to consult any other authority.

This amendment shall apply to Greater London as if Greater London were a county, the Greater London Council were the council of that county and the London boroughs and the City of London were county districts in that county.

Section 32 (protection for agriculture and forestry)

In section 32 "councils" shall include all local planning authorities.

Sections 110 and 111 (stopping up and diversion of footpaths)

In sections 110 and 111 "local authority" shall include any county council, and any joint planning board, being a board for an area which comprises any part of a National Park, but before a county council or joint planning board exercise any power under section 110 or 111 over any land they shall consult the council of any county borough or county district comprising any part of that land.

This amendment shall not affect section 112(3) (exercise by other authorities of powers under sections 110 and 111) or the definition of "appropriate authority" in section 112(7), and accordingly this amendment shall not require a county council exercising powers by virtue of the said section 112(3) to consult any other authority.

Section 112(5) (public path diversion order made at instance of Minister)

Where under section 112(5) the Minister directs an authority to make a public path diversion order or decides himself to make a public path diversion order, the local authority, or as the case may be the Minister, may require the owner, lessee or occupier on whose representations the Minister is acting to enter into an agreement with the local authority (that is to say, both where the local authority are directed to make the order and where the Minister himself is to make the order, the "appropriate authority" as defined in section 112(7)) for the owner, lessee or occupier to defray, or to make such contribution as may be specified in the agreement towards, any such compensation or expenses as are specified in paragraphs (a), (b) and (c) of section 111(4) of the Act of 1959.

Section 126 (authority for erection of stiles etc. in footpath or bridleway)

In section 126 references to agricultural land, and to land being brought into use for agriculture, shall include references to land used, or as the case may be land being brought into use, for forestry.

Schedule 7 (Orders for creation, extinguishment or diversion of public paths)

1. Paragraph 2 of the Schedule shall have effect as respects any order not made by the Minister, as defined in this Act, subject as follows.

SCH. 3

2. If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Minister, themselves confirm the order (but without any modification).

3. The authority shall not confirm a public path extinguishment order or a public path diversion order unless satisfied on all the matters on which the Minister must, under section 110(2), or as the case may be section 111(5), of the Act be satisfied when it is the Minister who is confirming the order.

4. The words "or confirmed as an unopposed order" shall be inserted—

(a) in section 28(1), section 110(1) and section 111(1) of the Act of 1959 after the words "and submitted to and confirmed by the Minister of Housing and Local Government",

(b) in paragraph 1(1) of Schedule 7 to the Act of 1959 after "Government for confirmation", and

(c) in paragraph 4 of the said Schedule 7 after "confirmed or made by the Minister of Housing and Local Government", and in paragraph (a) of the said paragraph 1(1) after "confirmation" insert "or to be confirmed as an unopposed order".

5. Section 286(2) of the Act of 1959 (variation or revocation of orders) shall apply to a public path creation order, a public path extinguishment order, or a public path diversion order, confirmed as an unopposed order as it applies to such an order confirmed by the Minister, but so that an order confirmed in either way may be revoked or varied by a subsequent order confirmed in the other way.

6. In paragraph 3(1) of the said Schedule 7 (regulations about procedure) the word "making" shall be inserted before "submission and confirmation".

7. These amendments of the Act of 1959 shall not affect an order made before the coming into force of this Act.

WATER RESOURCES ACT 1963

(1963 c. 38)

Section 67 (compulsory powers for carrying out works of building or engineering)

The applicants for an order under section 67 which would authorise the stopping up or diversion of a footpath or bridleway shall, not later than the date on which the notice required by paragraph 2 of Part I of Schedule 8 to the Act is first published, cause a copy of the notice to be displayed in a prominent position at the ends of the part of the path or way to be stopped up or diverted.

PART II

REVISION OF MAPS AND STATEMENTS

1. Any review or further review begun under section 33 of the Act of 1949 after the coming into force of this Act shall be carried out in accordance with this Part of this Schedule, and subsections (1) and (2) of section 34 of the Act of 1949 shall not apply to it.

2.—(1) Before carrying out the review the authority shall consult with the councils of county districts and parishes in the area of the authority as to the arrangements to be made for the provision by the councils of information for the purposes of the review, and subsections (2), (3) and (4) of section 28 of the Act of 1949 shall apply to the arrangements.

(2) If the authority is a joint planning board the reference in sub-paragraph (1) above to the councils of county districts and parishes shall include a reference to the council of every county or county borough wholly or partly comprised in the area of the board.

3. The review shall include the preparation of a revised map and statement in draft.

4.—(1) On completing the preparation of the draft map and statement (hereafter called the "draft revision") the authority shall notify the Minister and shall publish in the London Gazette and in one or more newspapers circulating in the area of the authority a notice of the preparation of the draft revision stating—

- (a) the places where copies of the draft revision can be inspected at all reasonable hours,
- (b) the time (not being less than 28 days) within which, and the manner in which, representations or objections with respect to alterations effected by the draft revision, or to anything omitted therefrom, may be made to the Minister.

(2) If the alterations effected by the draft revision include a new item showing a public path, or a road used as a public path, or any alteration of the particulars concerning a public path, or road used as a public path, section 29(2) of the Act of 1949 (right of owner and other interested persons to require the authority to give information about documents taken into account by the authority) shall apply with any necessary modifications.

(3) If any representation or objection is duly made in respect of alterations effected by the draft revision, or of anything omitted therefrom, and is not withdrawn, the Minister shall cause a local inquiry to be held.

(4) If any such representation or objection is duly made, and is not withdrawn, the Minister shall, subject to the following provisions of this paragraph, and after taking into consideration any report by the person appointed to hold the local inquiry, take a decision on the objection or representation, and if he considers that the draft revision should be modified to give effect to his decision he shall give to the authority such directions as appear to him necessary for the purpose.

(5) If it appears to the Minister that any modification which he proposes to make under sub-paragraph (4) above may adversely affect any persons other than the person who made the representation or objection, he shall, before giving any direction to the authority, afford to those persons an opportunity of being heard by a person appointed by the Minister.

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5.—(1) This paragraph has effect as respects the revised map and statement, if any, to be prepared under subsection (4) or proviso (d) of subsection (5) of section 33 of the Act of 1949 (map and statement to be prepared on completion of the review except where there is no change).

(2) The map and statement shall be prepared as soon as may be after the time prescribed by the notice under paragraph 4(1)(b) above, and after any representations or objections duly made, and not withdrawn, have been dealt with by the Minister.

(3) The authority shall publish in the London Gazette and in one or more newspapers circulating in the area of the authority notice of the preparation of the map and statement, and of places where copies of the map and statement may be inspected at all reasonable hours.

(4) The particulars to be contained in the map and statement shall be those contained in the draft revision, subject to such modifications as may be required for giving effect to any direction given by the Minister under paragraph 4(4) above.

(5) The authority shall furnish to the Minister such number of copies of the revised map and statement, as prepared in definitive form, as he may require.

(6) Subsections (4), (5) and (6) of section 32 of the Act of 1949 (effect of definitive maps and statements) shall apply to the said revised map and statement as they apply to an (unrevised) definitive map and statement.

6. This Part of this Schedule shall be construed as one with section 33 of the Act of 1949.

PART III

ROADS USED AS PUBLIC PATHS

The special review

7. In this Part of this Schedule the “special review” carried out by any authority means the first review begun by that authority after the coming into force of this Act.

8.—(1) Subject to the provisions of this paragraph, the draft revision in the special review shall be published not later than three years after the date of the coming into force of this Act.

(2) If on the said date the authority have not completed a survey or revision begun earlier—

(a) the draft revision in the special review shall be published not later than three years after the date of the coming into force of this Act, or one year after notice is published of the completion of the survey or earlier review, whichever is the later,

(b) the special review (hereafter in this Schedule called a “limited special review”) shall be confined to a review of roads used as public paths in accordance with this Part of this Schedule:

Provided that if on a review begun before the date of the coming into force of this Act no revised map and statement has been published in draft before that date, the review shall be abandoned, and shall be begun again under Part II of this Schedule as the special review.

(3) If it appears to the Minister that any stage of a special review has been or is likely to be unduly delayed, he may give to the authority such directions as appear to the Minister appropriate for expediting the review, and it shall be the duty of the authority to comply with the directions.

Reclassification of roads used as public paths

9.—(1) In the special review the draft revision, and the definitive map and statement, shall show every road used as a public path by one of the three following descriptions—

- (a) a “byway open to all traffic”,
- (b) a “bridleway”,
- (c) a “footpath”,

and shall not employ the expression “road used as a public path” to describe any way.

(2) As from the date of publication of the definitive map and statement in the special review—

- (a) each way shown in the map in pursuance of this paragraph by any of the three descriptions shall be a highway maintainable at the public expense,
- (b) subject to paragraph (c) below, any entry in the map describing a way as a “byway open to all traffic” shall be conclusive evidence of the existence on the date of publication of a public right of way for vehicular and all other kinds of traffic,
- (c) section 32(4)(c) of the Act of 1949 (position and width, and limitations or conditions affecting the public right of way, as shown in the statement) shall apply to any byway so shown as it applies to a footpath or bridleway.

(3) In this paragraph “road used as a public path” means—

- (a) a way which is shown as a “road used as a public path” in the last definitive map and statement, or
- (b) a way which is shown as a “bridleway” or as a “footpath” in the last definitive map and statement, and which in the opinion of the authority ought to have been there shown as a road used as a public path, or
- (c) where the special review is not a limited special review, a way which in the opinion of the authority would, but for the provisions of this Part of this Schedule, have fallen to be shown, in the definitive map and statement resulting from the special review, as a road used as a public path.

(4) In subsection (2)(a) and in subsection (5) of section 51 of the Act of 1949 (long distance routes) references to roads used as public paths shall include references to any way shown on a definitive map and statement as a “byway open to all traffic”.

SCH. 3
1967 c. 76.

(5) Nothing in this paragraph shall limit the operation of road traffic orders under the Road Traffic Regulation Act 1967 or oblige a highway authority to provide, on a way shown on a definitive map as a "byway open to all traffic", a metalled carriage-way, or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.

Test for reclassification

10. The considerations to be taken into account in deciding in which class a road used as a public path is to be put shall be—

- (a) whether any vehicular right of way has been shown to exist,
- (b) whether the way is suitable for vehicular traffic having regard to the position and width of the existing right of way, the condition and state of repair of the way, and the nature of the soil,
- (c) where the way has been used by vehicular traffic, whether the extinguishment of vehicular rights of way would cause any undue hardship.

Procedure on special review

11.—(1) Part II of this Schedule shall apply to a special review subject as follows.

(2) The published notices shall state that the review reclassifies roads used as public paths.

(3) The representations or objections referred to in paragraph 4 in Part II shall include representations or objections with respect to the reclassification of any road used as a public path.

(4) The time, as stated in the published notice of the draft revision, within which any representation or objection (of any description) may be made to the draft revision shall not be less than four months.

Survey begun after commencement of Act

12.—(1) Subject to the provisions of this paragraph, paragraphs 9 and 10 above shall apply to an initial survey begun after the coming into force of this Act as if it were the first review so begun.

(2) In paragraph 9(1), as applied to the survey, for references to the draft revision and the definitive map and statement there shall be substituted references to the map and statement in draft, provisional and definitive form, and in paragraphs 9 and 10, as applied to the survey, "road used as a public path" shall mean a way which in the opinion of the authority would, but for the provisions of this Part of this Schedule, have fallen to be shown, in the definitive map and statement resulting from the survey, as a road used as a public path.

Interpretation and construction

13.—(1) In this Part of this Schedule references to a definitive map and statement include references to a revised map and statement prepared in definitive form.

(2) This Part, and Part IV, of this Schedule shall be construed as one with Part IV of the Act of 1949.

PART IV

SCH. 3

TIMING OF REVIEWS

14.—(1) The period covered by a review, that is to say the period between the two dates specified in section 33(1) of the Act of 1949, shall not exceed five years:

Provided that this sub-paragraph shall not affect the validity of any review or of any document prepared or thing done in consequence of a review.

(2) The interval between the end of the period covered by a review and the publication of the draft revision shall be—

- (a) in the case of the special review, not more than two years, and
- (b) in the case of any subsequent review, not more than six months.

(3) In the case of a limited special review—

- (a) sub-paragraphs (1) and (2) above shall not apply, and
- (b) the period covered by the next subsequent review shall begin with the relevant date for the original survey, or the date of review of the last review before the special review, whichever is the later.

(4) Section 33(3) of the Act of 1949 (which is superseded by sub-paragraph (1) above) shall not apply to a review begun after the coming into force of this Act.

SCHEDULE 4

Section 39.

LOCAL AUTHORITY COMMITTEES AND JOINT BOARDS

Planning committees

1.—(1) Part I of Schedule 2 to the Town and Country Planning Act 1962 (appointment of planning committees) shall have effect as if all appropriate countryside functions exercisable by county councils or county borough councils were functions conferred on them as local planning authorities. 1962 c. 38.

(2) The functions to be delegated to a separate planning committee, or separate sub-committee of a planning committee, appointed in pursuance of section 8(3) of the Act of 1949 (for the part of the area of a local planning authority within a National Park, with or without any part of the remainder of the area) shall include, in addition to such of the local planning authority's functions under the said Act of 1962 and the Act of 1949 as are so delegated in pursuance of the said section 8(3), such other appropriate countryside functions exercisable by the local planning authority (whether as a local planning authority or as the council of a county or county borough) as may be agreed between the local planning authority and the Commission, or as in default of agreement the Minister may determine.

(3) The committee or sub-committee may under the said section 8(3) as extended by sub-paragraph (2) above be authorised to exercise any appropriate countryside functions for all or any part of the area of the local planning authority which is outside the area for which the committee or sub-committee is appointed.

SCH. 4
1933 c. 51.

(4) The purposes for which a committee may be appointed under section 85 of the Local Government Act 1933 (general power to appoint local authority committees) shall include the discharge of any appropriate countryside functions, including any such functions which the local authority in question exercise as a local planning authority.

This sub-paragraph has effect notwithstanding that subsection (5) of the said section 85 restricts that section where the local authority are authorised to appoint a committee by any other enactment, and notwithstanding that the said Part I of Schedule 2 to the Act of 1962 as amended by this paragraph is such an enactment; but this sub-paragraph shall not affect the provisions of the said section 8(3) of the Act of 1949.

Local planning authorities' joint advisory committees

2.—(1) The purposes for which under Part II of Schedule 2 to the said Act of 1962 a joint advisory committee may be established by local planning authorities or the Minister shall include the purpose of advising as to the exercise of any appropriate countryside functions exercisable by any of the local planning authorities concerned (whether as local planning authorities or as councils of counties or county boroughs).

(2) The functions of a joint advisory committee established, whether before or after the passing of this Act, to meet the requirements of section 8(4) of the Act of 1949 (which requires such a committee to be established where in consequence of a direction under the proviso to subsection (2) of that section there is no one local planning authority for the whole of a National Park) shall include the giving of advice on the exercise of any functions exercisable by the local planning authorities concerned (whether as local planning authorities or as councils of counties or county boroughs) which are conferred by this Act as respects the National Park, but without prejudice to the power given by sub-paragraph (1) above to confer other advisory functions on the joint advisory committee.

(3) Sub-paragraph (1) above shall not have effect so as to restrict the purposes for which a joint committee may be appointed under section 91 of the Local Government Act 1933 (general power to appoint joint committees of local authorities) notwithstanding that, under subsection (4) of that section, a joint committee is not to be appointed under that section for any purpose for which the local authorities are authorised to appoint a joint committee by any other enactment, and that sub-paragraph (1) above is such an enactment.

Joint planning boards

3. An order under section 2(2) of the said Act of 1962 (joint planning boards) may authorise a joint planning board, including one established pursuant to section 8(2) of the Act of 1949 for a National Park, to exercise any appropriate countryside functions exercisable by the councils of counties and county boroughs wholly or partly in the area of the joint planning board; and any functions so conferred shall be treated for the purposes of Part I of the said Schedule 2 as functions exercisable by the joint planning board as a local planning authority.

Appointment of members of board or committee for National Park area

SCH. 4

4.—(1) Not less than one third of the members of—

- (a) a joint board or joint advisory committee constituted for an area being or including the whole or any part of a National Park, or
- (b) a planning committee, or sub-committee of a planning committee, for such an area, where no joint board is constituted for the area,

shall be persons appointed by the Minister after consultation with the Commission:

Provided that if in any particular case the Minister, with the agreement of the Commission, so determines, this sub-paragraph shall have effect as if for the words “one third” there were substituted the words “one quarter”.

(2) The persons appointed in pursuance of sub-paragraph (1) above shall hold office for such period, not being less than one year nor more than three years, as the Minister may, after consultation with the Commission, determine and shall be eligible for re-appointment.

(3) This paragraph shall not affect any appointment made before this Act comes into force.

(4) This paragraph shall be construed as if it formed part of section 8 of the Act of 1949 (administration of functions of local authorities as respects National Parks), and shall be in substitution for subsection (6) of that section.

Interpretation

5. In this Schedule “appropriate countryside functions” means such functions under this Act, the Act of 1949, or any other enactment, as in the opinion of the local authority or local authorities concerned, or where the functions are ones which may be conferred by an order or determination of a Minister, of that Minister, relate to the countryside and are appropriate for reference to a committee or board concerned with matters relating to the countryside.

SCHEDULE 5

Section 50.

REPEALS

| Chapter | Short Title | Extent of Repeal |
|-----------------------|---|---|
| 9 & 10 Geo. 6. c. 49. | The Acquisition of Land (Authorisation Procedure) Act 1946. | Section 3(2)(3) except as applied by section 15 of the Opencast Coal Act 1958 and except as respects an order made, or notice of which was published, before the coming into force of this Act. |

SCH. 5

| Chapter | Short Title | Extent of Repeal |
|-------------------------------|--|---|
| 12, 13 & 14 Geo. 6. c. 97. | The National Parks and Access to the Countryside Act 1949. | <p>In section 2(3) the words "to any of the members of the Commission".</p> <p>In section 6(4) paragraphs (b) and (d).</p> <p>Section 8(6).</p> <p>Section 11(3).</p> <p>In section 34 subsections (1) and (2) except as respects any review begun before the coming into force of this Act.</p> <p>In section 73(1) the words from "whereby" to "undue hardship".</p> <p>Section 84.</p> <p>Section 85(a).</p> <p>In section 88 the words "(d) and".</p> <p>In section 89(4) the words from the beginning to "this Act; and".</p> <p>In section 90(3) the proviso.</p> <p>Section 92(2).</p> <p>Sections 93 and 94.</p> <p>In section 97, except as respects expenditure incurred before the end of the financial year in which this Act is passed, in subsection (1) in paragraph (c) the words "(1) and", and paragraphs (d) and (f), and subsections (2), (3) and (4).</p> <p>In section 101 subsection (9) and in subsection (10)(a) the words "by the Commissioners of Crown Lands or".</p> <p>In Schedule 1, Part II, in paragraph 8 the words "or Part II", and in paragraph 11 the words "or 6".</p> |
| 5 & 6 Eliz. 2. c. 20. | The House of Commons Disqualification Act 1957. | <p>In Part III of Schedule 1 the words "Chairman or Deputy Chairman of the National Parks Commission".</p> |
| 11 & 12 Eliz. 2. c. 29. | The Local Authorities (Land) Act 1963. | <p>In section 6(2), the words from the beginning to "accordingly" and the words from "for the words 'by' to 'section and'".</p> |



Prices and Incomes Act 1968

1968 CHAPTER 42

An Act to prolong the duration of certain provisions of the Prices and Incomes Acts 1966 and 1967; to extend the maximum period for which standstills in prices and charges or terms and conditions of employment may be enforced under the powers of those Acts, and to confer further powers for requiring reductions in prices and charges and for the deferment of wages regulation orders and agricultural wages orders; to limit company distributions; to limit rent increases and mitigate certain past rent increases for dwelling-houses, and to enable rents of local authority housing to be changed without notice to quit being given; and for connected purposes. [10th July 1968]

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

PART I

REGULATION OF PRICES AND EARNINGS

1. So long as this section has effect, sections 7 to 22 of the Prices and Incomes Act 1966 shall continue in force without any extension by Order in Council under section 6 of that Act of the period for which they were brought into force under that section. Continuation of Part II of Prices and Incomes Act 1966.
1966 c. 33.

2. For section 6(3) of the Prices and Incomes Act 1967 there shall be substituted:— Extension of Prices and Incomes Act 1967 ss. 1 to 3.
1967 c. 53.

“ (3) Sections 1 to 3 above shall cease to have effect at the end of the year 1969, but the expiration of those sections shall not affect any order or direction previously made or

PART I
1966 c. 33.

given under or by virtue of them for the application of any provision of the Prices and Incomes Act 1966, nor the operation of those sections for purposes of any such order or direction and matters arising therefrom.”

Increase in
length of
standstill
under Prices
and Incomes
Act 1967
s. 1 or 3.
1967 c. 53.

3.—(1) Where following a reference to the National Board for Prices and Incomes an order is made under section 1(2)(b) or 3(1) of the Prices and Incomes Act 1967 for the application of any provision of the Prices and Incomes Act 1966, the maximum period for which the provision may be made to apply shall be as specified in subsection (2) or (3) below.

(2) In the case of an order under section 1(2)(b) of the Prices and Incomes Act 1967, the maximum period shall be a period extending until the expiration of the eleven months beginning with the date of publication of the reference to the Board (instead of the six months so beginning as provided by section 1(2)(b)) or, in a case within section 2(2)(c) of that Act, with the date of publication of the direction given by virtue of that section (instead of the six months beginning with the date when the direction comes into force as provided by section 2(2)(c)).

(3) In the case of an order under section 3(1) of the Prices and Incomes Act 1967, the maximum period shall be a period ending eight months after the date of the order but beginning with that date or a later date (instead of a period of three months beginning with the date of the order or a later date, as provided by section 3(1)); and accordingly an order under section 3(1) may, in a case within subsection (1) of this section, be made not more than eleven months after the date of publication of the reference to the Board (instead of not more than six months after that date, as provided by section 3(2) of that Act).

(4) Where before the date of the passing of this Act an order has been made under section 1(2)(b) or 3(1) of the Prices and Incomes Act 1967 for the application of any provision of the Prices and Incomes Act 1966, the order may be amended by a further order of the Secretary of State under this subsection so as to extend, within the limits permitted by section 1(2)(b) or 3(1) as varied by this section, the period for which the said provision is to apply by virtue of the order amended; but—

(a) an order shall not be amended by a further order under this subsection unless the like notice has been given of the proposal to make the further order as is required by section 1 or 3 of the Prices and Incomes Act 1967 for orders under section 1(2)(b) or 3(1) of that Act; and

(b) paragraphs 3 to 5 of the Schedule to that Act (which relate to the contents and publication of such a notice and other matters preliminary to the making of those orders, and to the parliamentary procedure on those

orders) shall apply in relation to an amending order under this subsection as they apply in relation to those orders.

PART I

(5) Where in connection with a reference to the National Board for Prices and Incomes a standstill on an award or settlement is or has been imposed or continued under section 14 or section 15 of the Prices and Incomes Act 1966, or under section 1, section 2 or section 3 of the Prices and Incomes Act 1967, or under the last foregoing subsection, the award or settlement shall not be the subject of any second or further reference to the National Board for Prices and Incomes either during the period of standstill under the provisions of those sections as amended by subsections (2) and (3) of this section or after the expiration of that period; and on the expiration of that period no further standstill shall be imposed in respect of that award or settlement.

4.—(1) Where under section 2(1) or 2(3) of the Prices and Incomes Act 1966 any question is referred to the National Board for Prices and Incomes concerning prices for the sale of goods or charges for the performance of services, including charges for the application of any process to goods, the Minister or Ministers referring the question may include in the reference a direction to the Board to consider and, if the Board thinks fit, include in the Board's report recommendations for the reduction of all or any of the prices or charges; and if (not later than the time allowed under section 5 of that Act) a report of the Board on the reference is published containing such a recommendation, then subject to the provisions of this section the Minister or Ministers may by order direct that any of the prices or charges covered by the recommendation shall be reduced to such extent and for such period not exceeding twelve months (beginning with the date of the order or within three months thereof) as may be specified in the order.

Power to require reduction of prices or charges.

(2) An order shall not be made under subsection (1) above in consequence of a report of the Board more than three months after the date of publication of that report; and before making an order under that subsection the Minister or Ministers shall—

- (a) publish in the Gazette notice of the proposal to make it, which shall invite representations about the proposal to be made in writing within a stated period (not being less than fourteen days) to him or them, or to such one of them as the notice may designate, by or on behalf of any persons or undertakings selling goods or performing services for which the prices or charges are affected by the proposal; and
- (b) take into consideration any representations so made.

PART I

(3) No order made for purposes of this section shall impose on any prices or charges a restriction more stringent than is recommended by the Board or more stringent than has been proposed by a notice given in accordance with subsection (2) above; but subject to that, an order under subsection (1) above may give effect with such modifications as the Minister or Ministers may think proper to the proposal of which notice has been so given.

(4) An order made for purposes of this section shall prescribe in such manner and by reference to such matters as the Minister or Ministers may think fit the prices and charges that may be lawfully charged in cases to which the order applies; but where anything is done with the written consent of a Minister making or joining in making an order under this section, it shall not by reason of that order be unlawful under this section.

Any written consent given under this subsection shall be notified in the Gazette.

1966 c. 33.

(5) For purposes of this section the expressions "price" and "goods" have the same meanings as in Part II of the Prices and Incomes Act 1966; and, subject to the provisions of this section, the provisions of that Act specified in Schedule 1 to this Act (of which the subject matter is indicated in column 2 of the Schedule) shall apply for purposes of this section as they would apply if an order made for those purposes were an order under section 7(1) of that Act and if any overcharge beyond the price or charge permitted by an order under this section were an increase forbidden by that section.

1967 c. 53.

(6) The taking of steps with a view to the making of an order under this section shall not prejudice the exercise of any powers conferred by the Prices and Incomes Acts 1966 and 1967 or either of them, and in particular steps may be taken at the same time in relation to the same matter both under this section and under section 1 of the Prices and Incomes Act 1967 with a view to the making of an order either under this section or under that section.

Deferment
of wages
regulation
orders and
agricultural
wages orders.

5. The provisions of Schedule 2 to this Act shall have effect to authorise the deferment of the wages regulation orders and agricultural wages orders there mentioned.

PART II

REGULATION OF COMPANY DISTRIBUTIONS

Restriction
on ordinary
dividends,
and related
restrictions.

6.—(1) Subject to the provisions of this section, the Treasury may by order applying to any description of companies specified in the order, or by directions applying to any companies specified in the directions, prohibit the companies from declaring, without first obtaining the consent of the Treasury, ordinary dividends for

any financial year at a rate greater than that paid for the preceding financial year.

(2) For purposes of this section “ordinary dividend” means a dividend payable in cash, not being a capital dividend nor a fixed rate dividend; but so long as a company is subject to any order or directions under this section prohibiting it from declaring ordinary dividends as mentioned in subsection (1), then, except in so far as provision to the contrary is made by the order or directions, the company shall also be prohibited, without first obtaining the consent of the Treasury,—

- (a) from making any distribution out of assets of the company in respect of equity share capital of the company otherwise than by payment of an ordinary dividend or a fixed rate dividend or by repayment of capital; and
- (b) from assuming, whether conditionally or otherwise, any obligation to make a distribution as aforesaid.

(3) For purposes of this section a company is to be treated (subject to subsection (4) below) as declaring ordinary dividends for a financial year at a rate greater than that paid for the preceding financial year if at any time it declares an amount of ordinary dividends for the year which, alone or taken with any amount declared earlier, is greater than the amount of the ordinary dividends paid for the preceding financial year (which is not to be taken as including any amount paid in excess of that lawfully declared); but—

- (a) there shall be left out of the comparison to be made in connection with any declaration amounts declared earlier or paid for the preceding financial year so far as declared or paid in respect of share capital repaid before the declaration in point; and
- (b) dividends not expressed to be payable for the financial year in which they are declared shall be treated as dividends for the one before; and
- (c) the declaration of a dividend contrary to an order or direction under this section shall not be invalidated except to the extent to which it contravenes the order or direction.

(4) In this section references to a financial year of a company are references to any period in respect of which a profit and loss account of the company laid before it in general meeting is made up, and “the preceding financial year” means the immediately preceding financial year; but—

- (a) where comparison is to be made between the rates of ordinary dividend for two financial years differing in length by a month or more (both years having come

PART II

to an end), the amount to be taken into account as dividends paid for the earlier year shall be treated as increased or reduced in proportion to the greater or less length of the later year ; and

- (b) where it appears to the Treasury that a comparison with ordinary dividends for the immediately preceding financial year of a company would for any reason be inappropriate, the Treasury may direct that for purposes of the comparison “the preceding financial year” shall mean such earlier year as may be specified in the direction ; and
- (c) in relation to the declaration of ordinary dividends in or for its first financial year by a new company formed in connection with the reconstruction or amalgamation of another company or companies, this section shall have effect as if the company were not a new company but had paid no ordinary dividends for any previous financial year.

(5) Subject to subsection (4)(c) above nothing in this section shall be taken to apply to a new company during its first financial year or to the declaration by it of ordinary dividends for that year.

(6) The Treasury shall not withhold their consent under this section to the doing of anything by a company, if it is made to appear to the Treasury—

- (a) that the company is a close company for purposes of Part IV of the Finance Act 1965 ; and
- (b) that the action proposed to be taken by the company does not go beyond that which is likely to be required if there is not to be, within the meaning of section 77 of that Act, a shortfall in the company’s distributions for an accounting period (any operation of section 77(4) in relation to the restrictions imposed by this section being for this purpose disregarded).

(7) In this section references to the declaration of a dividend by a company are references to the taking of the decision to pay it, whether or not the decision is that of the company in general meeting ; “equity share capital” means any share capital not restricted, as regards participation in distributions of profits, to fixed rate dividends ; and “fixed rate dividend” means a dividend which in accordance with the rights attached to any share capital is payable in cash at a fixed rate on that capital or at a rate fluctuating only with the standard rate of income tax.

(8) This section shall apply to every company incorporated under the law of any part of the United Kingdom except a company which is for the time being treated under section 37 of the Finance Act 1965 as an investment trust for purposes to which that section applies ; but nothing in this section shall apply to companies not incorporated under the law of the United Kingdom. 1965 c. 25.

7.—(1) Any order of the Treasury under section 6 above may formulate the description of companies to which the order is to apply in any way, and in particular may include or exclude named companies. Further provisions as to orders, directions and regulations.

(2) Any order of the Treasury under section 6 above may be varied or revoked by a further order of the Treasury.

(3) The Treasury may by regulations make general provision for purposes of section 6 above—

(a) prescribing the form of applications for consent and the information to be furnished with any such application (but without prejudice to the power of the Treasury to request further information in connection with any such application) ; or

(b) for other incidental or supplementary matters.

(4) Any order or regulations of the Treasury under this Part of this Act shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Directions of the Treasury under this Part of this Act (including directions given for the purpose only of revoking earlier directions) shall be given by publication in the London, Edinburgh and Belfast Gazettes, and where publication in the Gazettes takes place on different dates, they shall be deemed to be given on the date on which they are first published in any of the Gazettes.

8.—(1) If any act prohibited by section 6 above is done in the case of any company, the company shall be guilty of an offence under this section. Offences.

(2) If in furnishing information in connection with an application for consent under section 6 above a person makes any statement, or produces or makes use of any document, which to his knowledge is or may be misleading, false or deceptive in a material particular, he shall be guilty of an offence under this section.

PART II

(3) Where an offence under this section committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the company or any person who was purporting to act in any such capacity, he as well as the company shall be guilty of the offence.

(4) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to a fine not exceeding one hundred pounds ; or
- (b) on conviction on indictment to a fine which, if the offender is not a body corporate, shall not exceed five hundred pounds.

(5) Proceedings for an offence under this section shall not be instituted in England or Wales except by or with the consent of the Attorney General, and shall not be instituted in Northern Ireland except by or with the consent of the Attorney General for Northern Ireland.

PART III

REGULATION OF RENT INCREASES

Restriction
on rent
increases under
regulated
tenancies.

9.—(1) Except in the cases and to the extent authorised by regulations made by the Minister under this section, the rent payable for any statutory period of a regulated tenancy of a dwelling house shall not, where a rent for the dwelling-house is registered, be increased by a notice of increase served while this section is in force ; and where a notice of increase purports to make in the rent an increase contrary to this subsection, the notice shall have effect to make so much, if any, of that increase as is permitted by the regulations, and no more.

(2) The Minister may by regulations make such provision as to contractual periods of regulated tenancies as appears to the Minister to be expedient in order to secure that the restriction imposed by subsection (1) above in relation to statutory tenancies is not made ineffective by the grant to a tenant (whether a statutory tenant or not) of a new tenancy or by any other arrangement or device.

(3) The provision which may be made by regulations under subsection (1) above may include provision for excepting from the restriction imposed by that subsection, either generally or in a particular area, such regulated tenancies (determined by reference to rateable values or otherwise) as may be provided by the regulations, or for making other exceptions, as well as for regulating in any manner the extent to which, or stages

by which, a rent may be increased ; and any regulations under this section—

PART III

- (a) may make such distinctions as appear to the Minister to be appropriate, and in particular may distinguish between payments for the use of furniture or for services and the remainder of a rent and provide for any necessary apportionment of the rent payable or of the rent registered for a dwelling-house ; and
- (b) may make different provision for different cases, whether by reference to area, rateable value or otherwise ; and
- (c) may make consequential, incidental or supplementary provision for the purposes of the regulations, and in particular provision for the admission as evidence of any matter (and in Scotland sufficient evidence) of documents used under or for the purposes of regulations under this section.

(4) This section and regulations made under it shall have effect notwithstanding anything contained in the Rent Act, and the consequential, incidental and supplementary provision that may be made by the regulations shall include such provision adapting or modifying that Act as appears to the Minister necessary for any purpose of the regulations ; and in the exercise of any power to make regulations under that Act regard may be had to matters connected with the operation of this section.

(5) Any power of the Minister to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In the application of this section to England and Wales, "the Rent Act" means the Rent Act 1968, and—

1968 c. 23

- (a) "the Minister" means the Minister of Housing and Local Government or, as regards Wales and Monmouthshire, the Secretary of State ; and
- (b) "notice of increase" means a notice of increase under section 22(2) of that Act ; and
- (c) other expressions shall be construed as in that Act.

(7) In the application of this section to Scotland, "the Rent Act" means the Rent Act 1965, and—

1965 c. 75.

- (a) "the Minister" means the Secretary of State ; and
- (b) "notice of increase" means a notice of increase under section 7 of that Act ; and
- (c) other expressions shall be construed as in that Act.

PART III
Restriction
on increases
in local
authority
rents.

10.—(1) Except in such cases and subject to such conditions as may be prescribed by any directions of the Minister, it shall not be lawful for a local authority to charge in respect of any houses to which this section applies rents exceeding the former rents, unless the increases accord with proposals submitted to and passed by the Minister under this section.

(2) The houses to which this section applies (in the following provisions of this section referred to as “local authority houses”) are those of which the rents fall to be carried to the local authority’s Housing Revenue Account kept under the Housing (Financial Provisions) Act 1958 or, in the application of this section to Scotland, the Housing (Financial Provisions) (Scotland) Act 1968; and for purposes of this section—

1958 c. 42.

1968 c. 31.

(a) “house” has the same meaning as it has for purposes of that Act, and “local authority” means any authority keeping a Housing Revenue Account under that Act; and

(b) “Minister” means, in relation to authorities in Scotland or in Wales and Monmouthshire, the Secretary of State and, in relation to other authorities, the Minister of Housing and Local Government:

Provided that the Minister may give directions extending the operation of this section to other housing accommodation of which a local authority (as above defined) in any part of Great Britain or a county council in England or Wales is landlord, and references in this section to a local authority or to a local authority house, and (for these cases) the expression “the coming into force of this section”, shall be given an extended or modified meaning accordingly.

(3) Any reference in this section to the former rent of a local authority house is a reference to the rent last payable for it as a local authority house before the date of the coming into force of this section (but reduced by the amount of any reduction made in the rent for the house under section 11 below) or, if there has been no rent so payable, the rent first payable for it as a local authority house after that date.

(4) On any comparison between rents under this section there shall be excluded from each so much, if any, of it as is determined in accordance with directions of the Minister to represent a payment for the use of furniture or for services or to represent rates, including water rates and charges; and in the case of one or both of the rents being payable at a rate varying according to the circumstances from time to time of the tenant (including the earnings of other persons in the house or of members of his family, or the presence of a lodger in the house), then for purposes of the comparison the amount of

the rent or each of the rents so payable shall be taken to be, whether it is the earlier or the later rent, the amount payable in the circumstances obtaining at the later date.

(5) Any proposals submitted by a local authority to the Minister under this section—

- (a) shall be accompanied by such information and be in such form as may be required by any directions of the Minister ;
- (b) may include provision for making rent increases by stages over a period or for limiting the proposed increases (or those proposed for any stage) in any way, whether by reference to a fixed amount or to a proportion of any rent to be increased, or by reference to a total or average amount or proportion for all the rents or some part of them, or otherwise ; and
- (c) shall state a minimum period after the making of the proposals during which the authority intend not to make, for cases covered by the proposals, further increases (apart from increases, if any, for which proposals are not required to be submitted under this section).

(6) A statement of intention included in a local authority's proposals in accordance with subsection (5)(c) above shall not preclude the authority from submitting within the stated period proposals for further increases covered by the statement ; but, if they do, the Minister may refuse consideration of the proposals unless there appear to him to be exceptional circumstances.

(7) If, on submission of proposals under this section to the Minister, he notifies the local authority of his agreement to the proposals (or two months elapse without his notifying them that he is unable to agree), then subject to any conditions attached to the agreement effect may be given to the proposals as proposals passed by the Minister ; but where it appears to the Minister that he ought not to agree to the proposals, or not without further information from the authority or further consideration of the proposals by the authority, he may within the two months notify the authority that he is unable to agree, and the submission shall then lapse.

(8) Where the Minister notifies a local authority that he is unable to agree to proposals submitted to him under this section, the local authority may, if they see fit having regard to any observations of the Minister, resubmit all or any of the proposals with or without modification ; and the provisions of this section (and in particular subsection (7) above) shall apply on the resubmission of any proposals as if they had not previously been submitted.

PART III

(9) A local authority shall comply with any directions given by the Minister as to the information to be published, or to be given to persons concerned, about proposals submitted by the authority under this section and any steps taken thereon.

(10) Any directions given by the Minister for purposes of this section may be either general or special.

1868 c. 100.

(11) In the event of a local authority contravening or failing to comply with any requirement imposed by or under this section, proceedings for its enforcement by mandamus, injunction, interdict or otherwise (including, in Scotland, proceedings under section 91 of the Court of Session Act 1868) may be instituted by or on behalf of the Minister.

(12) Where the Minister notifies, or has before the date of the passing of this Act notified, a local authority of his agreement to proposals submitted to him before that date for increasing rents charged by the authority for local authority houses, this section shall apply as if the proposals had been submitted to and passed by the Minister under this section, and shall so apply notwithstanding that the proposals did not include a statement of intention in accordance with subsection (5)(c) above.

(13) Any administrative expenses incurred by the Minister in consequence of the provisions of this section shall be defrayed out of moneys provided by Parliament.

Mitigation of
past increases
in local
authority
rents.

11.—(1) The Minister may give directions to local authorities requiring them, not later than one month after the date the directions are given, to give him notice, in such form and containing such particulars as may be indicated by the directions, of cases of any description so indicated in which the rents payable to them in respect of local authority houses at or last before the date of the coming into force of this section exceeded the rents so payable at or last before the 31st March 1968.

(2) Where the Minister has given directions under subsection (1) above, then as regards cases of any description indicated in those directions he may give directions to a local authority requiring them within a period specified in the directions (ending not earlier than two months after the date they are given) to submit for his approval proposals for reducing rents for the purpose of mitigating rent increases taking effect after the 31st March 1968 and before the date of the coming into force of this section.

(3) If the Minister approves proposals submitted to him under subsection (2) above either without modification or with any modifications made by the local authority on reconsidering the proposals at the request of the Minister, the Minister shall

notify the authority and the authority shall put the proposals into effect accordingly; and if an authority fails to submit proposals as required by subsection (2), or the proposals submitted are not approved by the Minister, the authority shall give effect to any directions which the Minister may see fit to give for reducing rents for the purpose of mitigating the rent increases in question.

(4) On receipt from a local authority of a notice required by directions under subsection (1) above the Minister may by a further direction require the authority to give further information; but no directions shall be given to a local authority under subsection (2) above more than two months after the date on which the authority complied with the directions under subsection (1) or, if a further direction is given under this subsection, with that direction.

(5) Directions under subsection (1) above may include provision for excepting from their operation cases in which it appears to the Minister that the information to be included in a local authority's notice is otherwise at his disposal; but no exception so made shall affect the operation of subsections (2) and (3) above, except that in relation to a case not covered by a local authority's notice directions shall not be given under subsection (2) more than three months after the date the directions under subsection (1) are given.

(6) If, on consideration of a report made by the National Board for Prices and Incomes on a reference to them under section 2(1) or (3) of the Prices and Incomes Act 1966 of any question relating to rents of local authority houses, it appears to the Minister that in the case of a local authority named in the reference the provisions of this section should extend to rent increases which took effect before the 1st April 1968, then any directions under subsection (2) above may extend to those increases as if they had taken effect at or after that date, or the Minister may in relation to those increases give under this subsection the like directions as in a case within subsection (2) he may give under that subsection in relation to increases taking effect at or after that date, and subsection (3) above shall apply accordingly; but directions shall not be given under this subsection more than two months after the date of publication of the Board's report or the date of the passing of this Act, whichever is the later.

(7) In this section expressions to which a meaning is assigned by section 10(2) above have the meaning so assigned, including any extended or modified meaning given by the proviso; and the following provisions of that section, that is to say, subsections (4), (9), (10), (11) and (13) shall apply also for purposes of this section.

PART III
Increase of
local
authority
rents without
notice to quit.

12.—(1) Subject to subsections (2) and (3) below, where a local authority house is let on a weekly or other periodical tenancy, the rent payable to the local authority under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of any rental period (that is to say, a period in respect of which a payment of rent falls to be made) by a written notice of increase given by the local authority to the tenant not less than four weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

(2) Where a local authority gives a notice of increase under subsection (1) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice to quit given by the tenant in accordance with the provisions express or implied of the tenancy, and—

- (a) the notice to quit is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase ; and
- (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant on the last day of that period.

(3) A local authority's notice of increase under subsection (1) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, the notice to quit must be received by the authority and the tenancy be made to terminate.

(4) For purposes of this section "local authority" means any authority keeping a Housing Revenue Account under the Housing (Financial Provisions) Act 1958 or, in the application of this section to Scotland, the Housing (Financial Provisions) (Scotland) Act 1968, "local authority houses" are houses of which the rents fall to be carried to a local authority's Housing Revenue Account kept under that Act and "house" has the same meaning as in that Act ; but this section shall have effect also in relation to a notice of increase given in relation to any other house if at the time it is given the authority giving it and the house are a local authority and a local authority house for purposes of section 10 above.

(5) This section shall apply in relation to a tenancy of a local authority house notwithstanding that the letting took place before the date of the passing of this Act.

1958 c. 42.
 1968 c. 31.

PART IV

DURATION, EXTENT, ETC.

13.—(1) This Act may be cited as the Prices and Incomes Act 1968, and the Prices and Incomes Acts 1966 and 1967 and this Act may be cited together as the Prices and Incomes Acts 1966 to 1968. Citation,
duration,
extent etc.

(2) For all purposes of the Prices and Incomes Acts 1966 to 1968 the date of publication of a report of the National Board for Prices and Incomes shall be determined as, in accordance with section 5(1) of the Prices and Incomes Act 1966, it is to be determined for purposes of that Act. 1966 c. 33.

(3) The references in sections 10(2) and 12(4) above to the Housing (Financial Provisions) (Scotland) Act 1968 shall, in relation to any time before the coming into force of that Act, be construed as references to the Housing (Scotland) Act 1950. 1968 c. 31.
1950 c. 34.

(4) The foregoing sections of this Act other than sections 2 and 12 shall cease to have effect at the end of the year 1969; but—

- (a) on the expiration of any section of this Act section 38(2) of the Interpretation Act 1889 shall apply as it would apply if the section had then been repealed by a later Act; and 1889 c. 63.
- (b) without prejudice to the operation of section 38(2) as so applied, the provisions of Schedule 3 to this Act shall have effect in relation to the expiration of any section of this Act there dealt with, and the expiration generally of any such section shall not affect its operation for purposes for which it is in accordance with that Schedule to continue in force.

(4) It is hereby declared that this Act, except Part III (and Schedule 3 so far as it relates to Part III), extends to Northern Ireland; but the Parliament of Northern Ireland shall have the same power to pass Acts with respect to any matter as they would have had if this Act had not passed and, in the event of any inconsistency between any Act of the Parliament of Northern Ireland duly passed after the passing of this Act and any provision of this Act, the Act of the Parliament of Northern Ireland shall, in Northern Ireland, prevail.

SCHEDULES

SCHEDULE 1

Section 4.

1966 c. 33.

PROVISIONS OF PRICES AND INCOMES ACT 1966 APPLIED IN
RELATION TO PRICE REDUCTION ORDERS

| Provision of 1966 Act | Subject matter |
|---|---|
| Section 7(4) and (5) ... | Method of framing descriptions of prices or charges, or taking account of discounts. |
| Section 9, together with Schedule 3. | Protection of export trade; prices and charges regulated by statute; auctions; effect on contracts; and saving for concluded contracts. |
| Section 11, except so much of subsection (3) as follows paragraph (c), and except subsection (4). | Offences of overcharging. |
| Section 20 | Variation and revocation of orders, and parliamentary procedure for orders. |
| Section 22(1) and (5) ... | Restriction on prosecutions, and liability of directors and other officers of bodies corporate. |
| Section 34(3) and (4) ... | Conditional sales and hire purchase; publication in Gazette. |

Section 5.

SCHEDULE 2

DEFERMENT OF WAGES REGULATION ORDERS AND AGRICULTURAL
WAGES ORDERS

PART I

WAGES REGULATION ORDERS

1959 c. 69.

1945 c. 21 (N.I.).

1. Notwithstanding anything in section 11(4) of the Wages Councils Act 1959 or, as regards Northern Ireland, section 10(4) of the Wages Councils Act (Northern Ireland) 1945, the Secretary of State or Ministry of Health and Social Services for Northern Ireland shall not be required to proceed to the making of an order giving effect to any wages regulation proposals before the end of the periods specified in paragraph 2 below.

2.—(1) The Secretary of State or Ministry may by virtue of this Schedule postpone the making of an order giving effect to wages regulation proposals for a period of three months beginning

with the date on which the wages regulation proposals were submitted or finally submitted to the Secretary of State or Ministry.

SCH. 2

(2) If, before an order is made giving effect to wages regulation proposals, the proposals are referred to the National Board for Prices and Incomes, then the making of the order may be postponed for a period—

(a) ending with the date of publication of the Board's report on the reference, if the report is published within three months from the date on which the reference is published in the Gazette ; or

(b) ending with those three months if the report is not so published ;

and if the Board's report is so published and contains a recommendation adverse in any respect to the wages regulation proposals, the making of the order may be postponed for an additional period, but so that the order shall be made within the twelve months beginning with the date of submission of the proposals.

In this sub-paragraph "date of submission" means the date of first submission to the Secretary of State or Ministry or, in the case of proposals resubmitted with amendments for increasing (by comparison with the proposals as previously submitted) any rate of remuneration or holidays, the date of resubmission.

3.—(1) Where the Secretary of State or Ministry postpones, by virtue of this Schedule, the making of an order to give effect to wages regulation proposals, the Secretary of State or Ministry shall at the end of the postponement proceed to the making of the order as if the order were giving effect to proposals then newly submitted ; but the order shall state that the making of it was postponed by virtue of this Schedule.

(2) Where an order does so state then—

(a) as regards periods after the proposals come into operation they shall have the like effect as if they had been brought into operation without any such postponement ; and

(b) the order may make such adaptations of the proposals, and in particular such adaptations of references to days or periods, as may be necessary to indicate that they have that effect.

PART II

AGRICULTURAL WAGES ORDERS

4. For purposes of this Part of this Schedule "agricultural wages order" and "appropriate authority" mean—

(a) in relation to England and Wales, an order made by the Agricultural Wages Board under section 3, 6, or 7 of the Agricultural Wages Act 1948, and the Minister of Agriculture, Fisheries and Food ; and

- Sch. 2
1949 c. 30. (b) in relation to Scotland, an order made by the Scottish Agricultural Wages Board under section 3, 6 or 7 of the Agricultural Wages (Scotland) Act 1949, and the Secretary of State ; and
- 1939 c. 25 (N.I.). (c) in relation to Northern Ireland, an order made by the Agricultural Wages Board for Northern Ireland under section 2 of the Agricultural Wages (Regulation) Act (Northern Ireland) 1939, and the Ministry of Agriculture for Northern Ireland.

5. The appropriate authority may by order direct that an agricultural wages order (or such of its provisions as have not already come into operation) shall not come into operation until the end of a period of three months beginning with the date on which the agricultural wages order is made.

6.—(1) Without prejudice to paragraph 5 above, if an agricultural wages order is referred to the National Board for Prices and Incomes (the reference being published in the Gazette before the order comes into operation), the order shall not come into operation until the period mentioned below has elapsed—

- (a) after the date of publication of the Board's report on the reference, if the report is published within three months from the date on which the reference is published in the Gazette ; or
- (b) after the end of those three months, if the report is not so published.

The period above referred to is a period of twenty-one days or such less period as the appropriate authority may direct by notice published in the Gazette.

(2) If the Board's report is so published and contains a recommendation adverse in any respect to the coming into operation of the agricultural wages order, the appropriate authority may by order made within the said period direct that the agricultural wages order shall not come into operation for such further period as may be specified in the order of the appropriate authority, not being a period ending more than twelve months after the date on which the agricultural wages order is made.

(3) Where an agricultural wages order is referred to the National Board for Prices and Incomes and the reference is published in the Gazette before part of the provisions of the order come into operation, this paragraph shall have effect in relation to the coming into operation of that part of its provisions.

7. Where the coming into operation of an agricultural wages order is postponed (in whole or in part) under this Part of this Schedule, then as regards periods after it comes into operation it shall have the like effect as if it had come into operation without any such postponement.

8. The powers of the Minister of Agriculture, Fisheries and Food and of the Secretary of State to make orders under this Part of this Schedule shall be exercisable by statutory instrument, and any order made by an appropriate authority under this Part of this Schedule may be varied or revoked by a further order of that authority.

PART III

SCH. 2

SUPPLEMENTARY

9. Section 34(4) of the Prices and Incomes Act 1966 (which makes provision about publication in the Gazette) shall apply in relation to this Schedule as it applies in relation to that Act; and where under this Schedule any period is to be computed from the date on which a reference is published in the Gazette, the period shall, if a reference under section 2(1) of that Act is varied by a reference under section 2(3), be computed in relation to either reference from the date on which the original reference under section 2(1) is so published. 1966 c. 33

SCHEDULE 3

Section 13.

SPECIAL PROVISIONS WITH REFERENCE TO EXPIRATION

1. As regards the expiration of section 1 of this Act any provision of the Prices and Incomes Acts 1966 and 1967 which would have effect on or in relation to the expiration of a period specified in an Order in Council under section 6(1) of the Prices and Incomes Act 1966 for the bringing into force of sections 7 to 22 of that Act (including the provision made by section 6(1) for extension of such a period) shall have effect in like manner.

2. The expiration of section 3 or section 4 of this Act shall not affect any order previously made under or by virtue of the section nor the operation of the section for purposes of any such order and matters arising therefrom.

3. Where before the expiration of section 5 of this Act a report of the National Board for Prices and Incomes is published containing a recommendation adverse in any respect to wages regulation proposals or an agricultural wages order, the expiration of that section shall not, in the case of wages regulation proposals, affect the operation of Part I of Schedule 2 to this Act in relation to the proposals or, in the case of an agricultural wages order, affect any order previously made under paragraph 6(2) of the Schedule with respect to it or the operation of Part II of the Schedule for purposes of the order and matters arising therefrom.

4. Where at the expiration of Part II of this Act a company is subject to any order or directions under section 6 prohibiting it from declaring ordinary dividends as mentioned in section 6(1), the expiration shall not affect the prohibition imposed by the order or directions as regards ordinary dividends for a financial year of the company beginning before the expiration, or the prohibition imposed by section 6(2) as regards the doing of anything before the financial year last so beginning is brought to an end, or the operation of Part II for purposes of or in relation to the order or directions or any such prohibition.

5.—(1) The expiration of section 9 of this Act shall not affect the operation of the section in relation to rents previously registered under the Rent Act, until a further twelve months have elapsed.

SCH. 3

(2) A notice of increase given at a time when section 9 applies to it shall not have a larger effect by reason of the section ceasing to apply.

(3) The lapsing for other purposes of any regulations at the end of the twelve months referred to in sub-paragraph (1) above shall not affect the admissibility of any document as evidence (and in Scotland sufficient evidence) in accordance with the regulations.

6. Where on the expiration of section 10 of this Act the minimum period stated in accordance with section 10(5)(c) in proposals submitted by a local authority and passed by the Minister has not come to an end, then as regards rents covered by the proposals the expiration shall not affect the operation of the section in relation to rent accruing in the interval before the end of that minimum period or, if it is earlier, the end of the financial year of the local authority ending next after the expiration of the section.



Appropriation Act 1968

1968 CHAPTER 43

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on 31st March 1969, and to appropriate the supplies granted in this Session of Parliament. [26th July 1968]

Most Gracious Sovereign,

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

GRANT OUT OF CONSOLIDATED FUND

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom, and apply towards making good the supply granted to Her Majesty for the service of the year ending on 31st March 1969, the sum of £6,735,187,850. Issue out of the Consolidated Fund for the year ending 31st March 1969.

APPROPRIATION OF GRANTS

2. All sums granted by this Act and the other Acts mentioned in Schedule (A) annexed to this Act out of the said Consolidated Fund towards making good the supply granted to Her Majesty amounting, as appears by the said schedule, in the aggregate, to the sum of £11,180,963,789 10s 4d are appropriated, and shall be deemed to have been appropriated as from the date of the passing of the Acts mentioned in the said Schedule (A), for the services and purposes expressed in Schedule (B) annexed hereto. Appropriation of sums voted for supply services.

The abstract of schedules and schedules annexed hereto, with the notes (if any) to such schedules, shall be deemed to be part of this Act in the same manner as if they had been contained in the body thereof.

In addition to the said sums granted out of the Consolidated Fund, there may be applied out of any money directed, under section 2 of the Public Accounts and Charges Act 1891, to be applied as appropriations in aid of the grants for the services and purposes specified in Schedule (B) annexed hereto the sums respectively set forth in the last column of the said Schedule.

1891 c. 24.

Sanction of Treasury for temporary application of surpluses on certain votes for Navy, Army and Air Services, to meet deficiencies on other votes for the same service.

3.—(1) So long as the aggregate expenditure on Navy, Army and Air Services respectively is not made to exceed the aggregate sums appropriated by this Act for those services respectively, any surplus arising on any vote for those services either by an excess of the sum realised on account of appropriations in aid of the vote over the sum which may be applied under this Act as appropriations in aid of that vote, or by saving of expenditure on that vote, may, with the sanction of the Treasury, be temporarily applied either in making up any deficiency in the sums realised on account of appropriations in aid of any other vote in the same department, or in defraying expenditure in the same department which is not provided for in the sums appropriated to the service of the department by this Act, and which it may be detrimental to the public service to postpone until provision can be made for it by Parliament in the usual course.

(2) A statement showing all cases in which the sanction of the Treasury has been given to the temporary application of a surplus under this section, and showing the circumstances under which the sanction of the Treasury has been given, shall be laid before the House of Commons with the appropriation accounts of the Navy, Army and Air Services for the year, in order that any temporary application of any surplus sanctioned by the Treasury under this section may be submitted for the sanction of Parliament.

Sanction for application of surpluses on certain Navy, Army and Air Votes for 1966-67.

1966 c. 3 and c. 26.

1967 c. 59.

4. Whereas under the powers given for the purpose by the Appropriation Acts 1966 and 1967 surpluses arising on certain votes for Navy, Army and Air Services have been applied towards making good deficits on those services respectively as shown in the statements set out in Schedule (C) to this Act:

It is enacted that the application of those surpluses as shown in the said statements is hereby sanctioned.

Short title.

5. This Act may be cited as the Appropriation Act 1968.

A B S T R A C T

OF

SCHEDULES (A) and (B) to which this Act refers

SCHEDULE (A)

Section 2.

Grants out of the Consolidated Fund ... £11,180,963,789 10s 4d

SCHEDULE (B)—APPROPRIATION OF GRANTS

Section 2.

| | Sums not exceeding | | | |
|--|--------------------|-------|-----------------------|-------|
| | Supply Grants | | Appropriations in Aid | |
| | £ | s. d. | £ | s. d. |
| 1966-67 and 1967-68 | | | | |
| Part 1. Defence (Army) Purchasing (Repayment) Services (Excess), 1966-67 - | 3,032,043 | 19 3 | — | |
| Part 2. Civil (Excesses), 1966-67 | 278,495 | 11 1 | 77,299 | 14 1 |
| Part 3. Defence (Central) (Supplementary), 1967-68 - | 4,462,000 | 0 0 | *-9,460,000 | 0 0 |
| Part 4. Defence (Navy) (Supplementary), 1967-68 - | 27,900,000 | 0 0 | 950,000 | 0 0 |
| Part 5. Defence (Army) (Supplementary), 1967-68 - | 29,900,000 | 0 0 | *-5,710,000 | 0 0 |
| Part 6. Defence (Royal Ordnance Factories) (Supplementary), 1967-68 - - - | 1,000 | 0 0 | 1,500,000 | 0 0 |
| Part 7. Civil Departments (Supplementary), 1967-68 - | 390,590,000 | 0 0 | 9,506,610 | 0 0 |
| | 456,163,539 | 10 4 | *-3,136,090 | 5 11 |

* Deficit.

SCHEDULE (B).—APPROPRIATION OF GRANTS—*continued*

| | Sums not exceeding | | | | | |
|--|--------------------|----|----|-----------------------|----|----|
| | Supply Grants | | | Appropriations in Aid | | |
| | £ | s. | d. | £ | s. | d. |
| 1968-69 | | | | | | |
| Part 8. Defence (Central) - | 24,060,000 | 0 | 0 | 53,579,000 | 0 | 0 |
| Part 9. Defence (Navy) - | 655,813,000 | 0 | 0 | 38,717,000 | 0 | 0 |
| Part 10. Defence (Army) - | 600,750,000 | 0 | 0 | 67,060,000 | 0 | 0 |
| Defence (Royal Ordnance Factories) - - - - | 3,000,000 | 0 | 0 | 42,700,000 | 0 | 0 |
| Defence (Army) Purchasing (Repayment) Services - - | 3,000,000 | 0 | 0 | — | | |
| Part 11. Defence (Air) - - | 557,320,000 | 0 | 0 | 49,050,000 | 0 | 0 |
| TOTAL, DEFENCE - -£ | 1,843,943,000 | 0 | 0 | 251,106,000 | 0 | 0 |
| Part 12. Civil, Class I - - | 180,144,250 | 0 | 0 | 6,758,500 | 0 | 0 |
| Part 13. Civil, Class II - - | 271,677,000 | 0 | 0 | 7,501,000 | 0 | 0 |
| Part 14. Civil, Class III - | 231,424,000 | 0 | 0 | 25,873,010 | 0 | 0 |
| Part 15. Civil, Class IV - - | 2,346,988,000 | 0 | 0 | 344,640,000 | 0 | 0 |
| Part 16. Civil, Class V - - | 395,083,000 | 0 | 0 | 12,878,000 | 0 | 0 |
| Part 17. Civil, Class VI - - | 4,410,432,000 | 0 | 0 | 311,081,930 | 0 | 0 |
| Part 18. Civil, Class VII - | 432,767,000 | 0 | 0 | 80,582,000 | 0 | 0 |
| Part 19. Civil, Class VIII - | 15,241,000 | 0 | 0 | 226,200 | 0 | 0 |
| Part 20. Civil, Class IX - - | 462,665,000 | 0 | 0 | 103,351,040 | 0 | 0 |
| Part 21. Civil, Class X - - | 16,269,000 | 0 | 0 | 30,094,300 | 0 | 0 |
| Part 22. Civil, Class XI - - | 118,167,000 | 0 | 0 | 5,143,100 | 0 | 0 |
| TOTAL, CIVIL - -£ | 8,880,857,250 | 0 | 0 | 928,129,080 | 0 | 0 |
| GRAND TOTAL - -£ | 11,180,963,789 | 10 | 4 | 1,176,098,989 | 14 | 1 |

SCHEDULE (A)

GRANTS OUT OF THE CONSOLIDATED FUND

| | £ | s. d. |
|---|----------------|-------|
| For the service of the year ended 31st March 1967— | | |
| Under Act 1968 c. 15 | 3,310,539 | 10 4 |
| For the service of the year ended 31st March 1968— | | |
| Under Act 1968 c. 1 | 351,701,000 | 0 0 |
| Under Act 1968 c. 15 | 101,152,000 | 0 0 |
| For the service of the year ending on 31st March 1969— | | |
| Under Act 1968 c. 15 | 3,989,612,400 | 0 0 |
| Under this Act | 6,735,187,850 | 0 0 |
| TOTAL | 11,180,963,789 | 10 4 |

Defence
(Army)
Purchasing
(Repayment)
Services
(Excess),
1966-67.

SCHEDULE (B).—PART 1

DEFENCE (ARMY) PURCHASING (REPAYMENT) SERVICES (EXCESS), 1966-67

| | Sums not exceeding | | | |
|---|--------------------|-------|-----------------------|-------|
| | Supply Grants | | Appropriations in Aid | |
| | £ | s. d. | £ | s. d. |
| Sum granted, to make good an excess on the grants for service of the Defence (Army) Purchasing (Repayment) Services for the year ended 31st day of March 1967 - - | 3,032,043 | 19 3 | — | — |

SCHEDULE (B).—PART 2

Civil
(Excesses),
1966-67.

CIVIL (EXCESSES), 1966-67

SUMS granted, and sums which may be applied as appropriations in aid in addition thereto, to make good excesses on certain grants for Civil Services for the year ended 31st March 1967, viz. :—

| Vote | | Sums not exceeding | | | |
|------|--|--------------------|-------|-----------------------|-------|
| | | Supply Grants | | Appropriations in Aid | |
| | | £ | s. d. | £ | s. d. |
| | CLASS IV | | | | |
| 2 | BOARD OF TRADE (PROMOTION OF TRADE, EXPORTS, &C., AND SHIPPING AND OTHER SERVICES) - - - - - | 10 | 0 0 | — | |
| 12 | MINISTRY OF TRANSPORT - | 16,853 | 4 7 | — | |
| 15 | ROADS, &C., WALES - - | 161,946 | 19 0 | *—5,017 | 19 11 |
| | CLASS VI | | | | |
| 19 | NATIONAL HEALTH SERVICE (SUPERANNUATION, &C.), SCOTLAND | 10 | 0 0 | 78,157 | 15 7 |
| | CLASS IX | | | | |
| 20 | POST OFFICE SUPERANNUATION, &C. - - - - - | 10 | 0 0 | 4,847 | 4 6 |
| | CLASS XI | | | | |
| 4 | PENSIONS, &C. (OVERSEAS SERVICES) - - - - - | 99,665 | 7 6 | *—687 | 6 1 |
| | TOTAL, CIVIL (EXCESSES) 1966-67 £ | 278,495 | 11 1 | 77,299 | 14 1 |

* Deficit.

Defence
(Central)
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 3

DEFENCE (CENTRAL) (SUPPLEMENTARY), 1967-68

SUPPLEMENTARY SUM granted, and sum which may be applied as appropriations in aid in addition thereto, to defray the charge of Defence (Central) for the year ended 31st March 1968, viz.:—

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grant | Appropriations in Aid |
| | £ | £ |
| For the salaries and expenses of the Central Defence Staffs, the Defence Secretariat and the Central Defence Scientific Staff and of certain Joint Service Establishments; purchases of defence equipment for sale abroad; expenses in connection with sales of defence equipment and International Defence Organisations, including international subscriptions; and sundry other services including certain grants in aid - | 4,462,000 | *—9,460,000 |

* Deficit.

SCHEDULE (B).—PART 4

Defence
(Navy)
(Supple-
mentary),
1967-68.

DEFENCE (NAVY) (SUPPLEMENTARY), 1967-68

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Navy Services for the year ended 31st March 1968, viz.:—

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. Pay, &c. of the Royal Navy and Royal Marines - - - - - | 1,750,000 | *—50,000 |
| 3. Navy Department Headquarters - - | 400,000 | — |
| 4. Research and Development and Other Scientific Services - - - - - | Cr. 650,000 | 150,000 |
| 5. Medical Services, Education and Civilians on Fleet Services - - - - - | 850,000 | — |
| 6. Naval Stores, Armament, Victualling and Other Material Supply Services - - | 16,950,000 | 1,000,000 |
| 7. H.M. Ships, Aircraft and Weapons, New Construction and Repairs - - - - | 8,250,000 | *—150,000 |
| 8. Miscellaneous Effective Services - - | 650,000 | — |
| 9. Non-Effective Services - - - - - | Cr. 300,000 | — |
| TOTAL, DEFENCE (NAVY) SUPPLEMENTARY 1967-68 - - - - -£ | 27,900,000 | 950,000 |

* Deficit.

Defence
(Army)
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 5

DEFENCE (ARMY) (SUPPLEMENTARY), 1967-68

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Army Services for the year ended 31st March 1968, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. Pay, &c., of the Army - - - - | 4,700,000 | 250,000 |
| 2. Reserve and Cadet Forces - - - - | Cr.2,410,000 | *-1,470,000 |
| 3. Army Department Headquarters - - | 320,000 | 15,000 |
| 4. Civilians at Outstations - - - - | 8,200,000 | 70,000 |
| 5. Movements - - - - - - - - | Cr. 900,000 | 60,000 |
| 6. Supplies - - - - - - - - | 1,140,000 | 30,000 |
| 7. Stores and Equipment - - - - - | 1,500,000 | 700,000 |
| 8. Miscellaneous Effective Services - - | 250,000 | 445,000 |
| 9. Non-Effective Services - - - - - | 1,100,000 | — |
| 10. Defence Lands and Buildings - - - | 16,000,000 | *-5,810,000 |
| TOTAL, DEFENCE (ARMY) SUPPLEMENTARY, 1967-68 - - - - -£ | 29,900,000 | *-5,710,000 |

* Deficit.

SCHEDULE (B).—PART 6

Defence
(Royal
Ordnance
Factories)
(Supple-
mentary),
1967-68.

DEFENCE (ROYAL ORDNANCE FACTORIES) (SUPPLEMENTARY), 1967-68
SUPPLEMENTARY SUM granted, and sum which may be applied as appropriations in aid in addition thereto, to defray the charge for the Royal Ordnance Factories for the year ended 31st March 1968, viz. :—

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| For operating the Royal Ordnance Factories - | 1,000 | 1,500,000 |

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7

CIVIL DEPARTMENTS (SUPPLEMENTARY), 1967-68

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges for the Services herein particularly mentioned for the year ended 31st March 1968, viz.:—

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| CLASS I | | |
| Vote | | |
| 1. For the salaries and expenses of the House of Lords - - - - - | 17,000 | 1,000 |
| 2. For the salaries and expenses of the House of Commons, including a loan and certain grants in aid - - - - - | 163,000 | — |
| 3. For the salaries and expenses of the Department of Her Majesty's Treasury and subordinate departments and of the First Secretary of State, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster, and two Ministers without Portfolio - - - - - | 166,000 | 25,000 |
| 4. For the salaries and expenses of the Department of Her Majesty's First Secretary of State and Secretary of State for Economic Affairs, of the National Economic Development Council and of the National Board for Prices and Incomes, and for certain grants in aid - | 35,000 | — |
| 5. For the salaries and expenses of the Department of Her Majesty's Most Honourable Privy Council - - - - - | 3,000 | — |
| 7. For the salaries and expenses of the Customs and Excise Department, including a subscription to an international organisation - - - - - | 507,000 | 50,000 |
| 8. For the salaries and expenses of the Inland Revenue Department - - - - - | 4,014,000 | 242,000 |
| 10. For the salaries and expenses of the Department of the Comptroller and Auditor General - - - - - | 27,000 | 4,000 |
| 11. For the salaries and expenses of the Civil Service Commission - - - - - | 81,000 | 20,000 |
| 12. For the salaries and expenses of Royal Commissions, committees, special enquiries, &c., and for a grant in aid - | 26,000 | — |

SCHEDULE (B).—PART 7—continued

Civil
Departments
(Supple-
mentary),
1967-68.

| Vote | CLASS II | Sums not exceeding | |
|------|--|--------------------|-----------------------|
| | | Supply Grants | Appropriations in Aid |
| | | £ | £ |
| 1. | For the salaries and expenses of the offices of Her Majesty's Secretary of State for Foreign Affairs and of Her Majesty's Secretary of State for Commonwealth Affairs; Her Majesty's Diplomatic Service; and sundry other services connected therewith - - - - | 2,986,000 | 79,000 |
| 2. | For expenditure by the Foreign Office on sundry grants and services, including subscriptions, &c., to certain international organisations and certain grants in aid - - - - | 2,998,000 | 48,000 |
| 4. | For expenditure by the Commonwealth Office on sundry grants and services, including subscriptions to certain international organisations and certain grants in aid (Revised sum) - - - - | 9,107,000 | 619,000 |
| 6. | For expenditure by the Ministry of Overseas Development on grants and services connected with multilateral overseas aid, including subscriptions to certain international organisations and certain grants in aid - - - - | 1,000 | — |
| 7. | For expenditure by the Ministry of Overseas Development on grants and services connected with bilateral overseas aid, including certain grants in aid - - | 11,069,000 | *—38,500 |
| 8. | For expenditure by the Ministry of Overseas Development on sundry services connected with overseas aid, including certain grants in aid - - | 699,000 | *—74,000 |
| 10. | For a grant in aid of the Commonwealth War Graves Commission and certain other expenses - - - - | 24,000 | — |

* Deficit.

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7—continued

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| CLASS III | | |
| Vote | | |
| 1. For the salaries and expenses of the office of Her Majesty's Secretary of State for the Home Department; expenses and grants in connection with certain law, fire and sundry other services; and certain grants in aid - - - - | 660,000 | 36,000 |
| 2. For the salaries and expenses of the office of the Secretary of State for Scotland and of the Scottish Home and Health Department; for a grant to the Legal Aid (Scotland) Fund; for expenses in connection with fire, probation and sundry other services; and for grants in aid - - - - | 91,000 | *—41,000 |
| 4. For grants and expenses in connection with civil defence in Scotland and certain remanet expenditure - - - - | 350,000 | — |
| 5. For grants in respect of expenditure incurred by police authorities in England and Wales, expenses in connection with the police services and a subscription to an international organisation (Revised sum) - - - - | 10,483,000 | 116,010 |
| 6. For grants in respect of expenditure incurred by police authorities in Scotland, and expenses in connection with the police services - - - - | 867,000 | *—255,000 |
| 8. For the salaries and expenses of prisons, borstal institutions, detention and remand centres in Scotland - - - - | 329,000 | 21,000 |
| 11. For such of the salaries and expenses of the Supreme Court of Judicature, Law Commission and Courts-Martial Appeal Court as are not charged on the Consolidated Fund; the salaries and expenses of the Judge Advocate General and Judge Advocate of the Fleet, Pensions Appeal Tribunals, the Lands Tribunal, the Restrictive Practices Court and Council on Tribunals, and certain other expenses - - - - | 1,000 | 31,000 |
| 12. For the salaries and expenses of the County Courts - - - - | 1,000 | 171,000 |
| 13. For a grant to the Legal Aid Fund - - - - | 94,000 | — |

* Deficit.

SCHEDULE (B).—PART 7—continued

Civil
Departments
(Supple-
mentary),
1967-68.

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| CLASS III—continued | | |
| 14. For the salaries and expenses of the Law Officers' Department, the Department of Her Majesty's Procurator-General and Solicitor for the Affairs of Her Majesty's Treasury and the Department of the Director of Public Prosecutions; for the costs of prosecutions and other legal proceedings and of Parliamentary Agency - - - - - | 137,000 | 31,000 |
| 15. For the salaries and expenses of the Lord Advocate's Department, of the Courts of Law and Justice, of the Scottish Law Commission, and of the Courts, Tribunals, &c.; and for sundry services - | 1,000 | 58,000 |
| CLASS IV | | |
| 1. For salaries and expenses of the Ministry of Transport, and certain Tribunals and Committees - - - - - | 1,000,000 | *—655,000 |
| 2. For the expenditure of the Ministry of Transport in grant to the British Railways Board, the London Transport Board and the British Waterways Board in respect of deficits on their revenue accounts (Revised sum) - - - | 30,000,000 | — |
| 3. For services connected with inland transport, including repayments &c., of selective employment tax to the nationalised transport undertakings; grants to road passenger transport operators; ports, a Channel Tunnel, Governmental shipping services, and sundry other services, including subscriptions to certain international organisations - | 1,158,000 | 9,000 |
| 4. For expenditure, including grants and loans to highway authorities on the construction, improvement and maintenance of roads, &c., in England and sundry services connected therewith; for expenditure on the collection of motor vehicle duties, &c., and the registration of motor vehicles in Great Britain; for road research; and for sundry other services - - - - - | 3,000,000 | 1,250,000 |

* Deficit.

2 H*

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7—*continued*

| | Sums not exceeding | |
|--|--------------------|----------------------------|
| | Supply Grants | Appropria- tions in Aid |
| | £ | £ |
| <i>CLASS IV—continued</i> | | |
| Vote | | |
| 5. For expenditure, including grants and loans to highway, &c., authorities, on the construction, improvement and maintenance of roads, &c., in Scotland and sundry services connected therewith; and for sundry other services - - - | 5,697,000 | 10,000 |
| 6. For expenditure, including grants to highway, &c., authorities on the construction, improvement and maintenance of roads, &c., in Wales and sundry services connected therewith; and for sundry other services - - - - - | 4,482,000 | — |
| 7. For the salaries and expenses of the Ministry of Labour including those relating to the Employment Exchange service and the inspection of factories; for expenses, grants and loans in connection with employment, training, rehabilitation, &c.; for expenses of the Industrial Court; for a subscription to the International Labour Organisation, a grant in aid and sundry other services | 1,000 | — |
| 9. For the salaries and expenses of the office of the Committee of Privy Council for Trade and subordinate departments and agencies - - - - - | 1,000 | 1,077,000 |
| 11. For the expenditure of the Board of Trade on the promotion of trade, exports and industrial efficiency, on services connected with shipping and on trading and other services, including loans, subscriptions to certain international organisations and grants in aid - - | 9,662,000 | 10,100 |
| 13. For the expenditure of the Board of Trade on grants for assisting investment in new business assets (Revised sum) - - - | 89,000,000 | — |
| 15. For payments under Special Guarantees given or arising from other arrangements made by the Board of Trade in the national interest - - - - - | 1,000 | 542,000 |

SCHEDULE (B).—PART 7—*continued*

Civil
Departments
(Supple-
mentary),
1967-68.

| | Sums not exceeding | |
|---|--------------------|--------------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| CLASS IV—<i>continued</i> | | |
| Vote | | |
| 16. For expenditure by the Department of Economic Affairs on Exchequer investment in the Industrial Reorganisation Corporation - - - - - | 5,000,000 | — |
| 17. For the salaries and expenses of the Ministry of Power; for expenditure on oil storage and distribution; for assistance to the coal industry; for certain repayments, &c., of selective employment tax; for expenses in connection with the nationalisation of the Iron and Steel Industry; and for sundry other services - - - - - | 5,186,000 | 162,000 |
| 18. For the salaries and expenses of the Ministry of Technology, including the administration of research, development and inspection - - - - - | 3,000,000 | 70,000 |
| 19. For the expenditure of the Ministry of Technology on technological and industrial services, including a loan and certain subscriptions to international organisations and grants in aid - - | 1,000 | — |
| 20. For expenditure by the Ministry of Technology on supply services (including research, development and inspection), and in connection with the development and production of civil aircraft and associated safety equipment, on a contribution to an international organisation, loans, a grant in aid and sundry other services - - - - - | 5,000,000 | 1,445,000 |
| 21. For expenditure by the Ministry of Technology on the supply of aircraft and other equipment for the Government service and on miscellaneous supply - | 15,000,000 | — |
| 24. For payments towards meeting the expenses of the United Kingdom Atomic Energy Authority, for subscriptions, &c., to international projects and organisations, for the administration of a national stockpile of uranium ore, for a grant in aid, and for repayment &c., of selective employment tax to the Atomic Energy Authority Trading Fund | 2,150,000 | 2,235,000 |

2 H 2*

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7—*continued*

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| <i>CLASS IV—continued</i> | | |
| <i>Vote</i> | | |
| 26. For repayments of selective employment tax to the Postmaster General and to Cable and Wireless Ltd. - - - - | 100,000 | — |
| <i>CLASS V</i> | | |
| 1. For the salaries and expenses of the Ministry of Agriculture, Fisheries and Food; of the Royal Botanic Gardens, Kew; of the White Fish Authority and Scottish Committee; of the Plant Variety Rights Office; and of the Meat and Livestock Commission - - - - | 1,085,000 | — |
| 2. For the salaries and expenses of the Department of Agriculture and Fisheries for Scotland; for expenditure in connection with sundry agricultural, food, transport and harbour services, the development of the Highlands and Islands and rural development elsewhere, including grants and grants in aid; and for refunds of selective employment tax to agricultural, horticultural and forestry employers - - - - - | 200,000 | *—70,000 |
| 4. For expenditure by the Department of Agriculture and Fisheries for Scotland on grants and subsidies for the encouragement of food production and the improvement of agriculture - - - | 2,465,000 | — |
| 7. For expenditure by the Ministry of Agriculture, Fisheries and Food in connection with sundry agricultural and food services, and rural development, including grants, loans, grants in aid, certain subscriptions to international organisations and for refunds of selective employment tax to agricultural, horticultural and forestry employers (Revised sum) - - - - - | 32,063,000 | 210,000 |
| 11. For a grant in aid of the Forestry Fund - | 660,000 | — |

* Deficit.

SCHEDULE (B).—PART 7—*continued*

Civil
Departments
(Supple-
mentary),
1967-68.

| | | Sums not exceeding | |
|----------|---|--------------------|-----------------------|
| | | Supply Grants | Appropriations in Aid |
| CLASS VI | | £ | £ |
| Vote | | | |
| 1. | For the salaries and expenses of the Ministry of Housing and Local Government and certain tribunals, commissions &c.; grants and expenses in connection with environmental services and civil defence; tax and rating payments including selective employment refunds; sundry other services; a subscription to an international organisation and grants in aid - - - - - | 1,000 | — |
| 2. | For the salaries and expenses of the Scottish Development Department and certain tribunals, &c.; for grants and payments in connection with environmental services, selective employment refunds and rate rebates, storm damage relief, assistance to the coal industry, and sundry other services, including grants in aid- - - - - | 574,000 | — |
| 3. | For the salaries and expenses of the office of the Secretary of State for Wales and certain tribunals, &c.; grants and expenses in connection with environmental services and civil defence; tax and rating payments including selective employment refunds; and sundry other services and grants in aid - - - - | 339,000 | — |
| 5. | For grants and other payments relating to the provision, improvement and repair of permanent and temporary housing accommodation in Scotland - - - - | 343,000 | 20,000 |
| 7. | For rate support grants, general grants and rate deficiency grants to local authorities in England and Wales - - - - - | 22,977,000 | — |
| 8. | For rate support grants, general grants, equalisation and transitional grants to local authorities in Scotland - - - - | 2,285,000 | |
| 10. | For the salaries and expenses of the Ministry of Health; for the expenses of certain committees, &c.; and for sundry services - - - - - | 446,000 | *—30,000 |

* Deficit.

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7—*continued*

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| <i>CLASS VI—continued</i> | | |
| Vote | | |
| 11. For the provision of hospital services, &c., under the National Health Service, &c., in England and Wales; and other services (Revised sum) - - - - | 22,740,000 | *—2,261,000 |
| 12. For the provision of Executive Councils' Services, &c., under the National Health Service in England and Wales - - | 4,315,000 | *—576,000 |
| 13. For the provision in England and Wales of certain miscellaneous services under the National Health Service, &c., and of certain welfare services; and for a subscription to the World Health Organisation and certain grants in aid - - | 993,000 | *—615,000 |
| 15. For the provision of services under the National Health Service in Scotland and other health and welfare services including a grant in aid - - - - | 4,253,000 | *—290,000 |
| 16. For expenditure by the Scottish Home and Health Department on pensions, allowances and gratuities, &c., payable under Section 6(8) of the National Health Service (Scotland) Act 1947, or under Regulations made under Section 66 of that Act; and certain payments to the National Insurance Fund - - - - | 1,000 | 225,000 |
| 17. For the salaries and expenses of the Ministry of Social Security including appellate, advisory and sundry other services, for certain selective employment refunds and a subscription to an international organisation - - - - | 1,000 | 2,568,000 |
| 18. For sums payable by the Exchequer to the National Insurance Fund and the Industrial Injuries Fund (Revised sum) - - | 16,200,000 | — |
| 19. For payments in respect of family allowances - - - - - | 8,500,000 | — |
| 20. For supplementary pensions and allowances - - - - - | 3,000,000 | 2,000,000 |
| 21. For payments in respect of pensions, gratuities and allowances for disablement or death arising out of war, or service in the Armed Forces after 2 September 1939, and for sundry other services - - - - - | 5,950,000 | — |

* Deficit.

SCHEDULE (B).—PART 7—continued

Civil
Departments
(Supple-
mentary),
1967-68.

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| CLASS VII | | |
| Vote | | |
| 1. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Education and Science; for grants and loans in connection with education, &c.; for sundry services; for a subscription to an international organisation and for certain grants in aid | 1,770,000 | *—158,000 |
| 2. For the salaries and expenses of the Scottish Education Department; for grants and a loan in connection with education &c.; for sundry services and for a grant in aid - - - - - | 565,000 | 109,000 |
| 3. For expenditure by the Department of Her Majesty's Secretary of State for Education and Science on superannuation allowances and gratuities, &c., in respect of teachers - - - - - | 1,000 | 608,000 |
| 4. For expenditure by the Scottish Education Department on superannuation allowances and gratuities, &c., in respect of teachers - - - - - | 188,000 | *—130,000 |
| 5. For the salaries and expenses of the University Grants Committee, for grants in aid and grants towards the expenses of, and for loans to, universities, colleges, the British Academy, &c. - - - - - | 46,000 | — |
| 7. For grants in aid of the Science Research Council including subscriptions to certain international organisations - - - - - | 1,390,000 | — |
| 8. For grants in aid of the Natural Environment Research Council including a subscription to an international organisation - - - - - | 104,000 | — |
| 11. For the salaries and expenses of the British Museum (Natural History), including a purchase grant in aid - - - - - | 13,000 | — |
| CLASS VIII | | |
| 3. For the salaries and expenses of the Victoria and Albert Museum, including purchase grants in aid - - - - - | 8,000 | 2,000 |
| 5. For the salaries and expenses of the London Museum, including a purchase grant in aid - - - - - | 4,000 | — |
| 6. For the salaries and expenses of the National Gallery, including a purchase grant in aid - - - - - | 13,000 | *—1,000 |

* Deficit.

2 H 4*

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7—*continued*

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| <i>CLASS VIII—continued</i> | | |
| Vote | | |
| 7. For the salaries and expenses of the National Maritime Museum, including a purchase grant in aid- - - - | 4,000 | — |
| 9. For the salaries and expenses of the Tate Gallery, including purchase grants in aid | 3,000 | 2,000 |
| 10. For the salaries and expenses of the Wallace Collection - - - - | 3,000 | — |
| 11. For the salaries and expenses of the Royal Scottish Museum, including purchase grants in aid, certain other grants in aid and a grant to the Scottish Council for Museums and Galleries - - - - | 2,000 | *—2,000 |
| 12. For the salaries and expenses of the National Gallery of Scotland, the Scottish National Gallery of Modern Art and the Scottish National Portrait Gallery, including purchase grants in aid - - - - | 12,000 | — |
| 14. For the salaries and expenses of the National Museum of Antiquities of Scotland, including a purchase grant in aid - - - - | 3,000 | — |
| 16. For grants to, and grants in aid of, certain institutions and bodies connected with the arts - - - - | 1,000 | — |
| <i>CLASS IX</i> | | |
| 1. For the salaries and expenses of the Ministry of Public Building and Works | 3,500,000 | 850,000 |
| 2. For expenditure on public buildings in the United Kingdom, including a grant in aid, a purchase grant in aid, and sundry other services (Revised sum) - - - - | 7,150,000 | *—550,000 |
| 3. For expenditure on public buildings overseas - - - - | 100,000 | — |
| 4. For expenditure on works and buildings for the Ministry of Defence (Navy Department) - - - - | 3,500,000 | 220,000 |
| 5. For expenditure on works and buildings for the Ministry of Defence (Army Department) - - - - | 8,000,000 | 303,000 |
| 6. For expenditure on works and buildings for the Ministry of Defence (Air Force Department) - - - - | 1,750,000 | *—700,000 |
| 8. For expenditure on works and buildings for Royal Ordnance Factories - - - - | 100,000 | — |

* Deficit.

SCHEDULE (B).—PART 7—continued

Civil
Departments
(Supple-
mentary),
1967-68.

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| CLASS IX—continued | | |
| Vote | | |
| 10. For expenditure on Houses of Parliament buildings - - - - - | 25,000 | — |
| 13. For grants and expenses in connection with ancient monuments - - - | 43,000 | 23,000 |
| 16. For the salaries and expenses of the Central Office of Information - - | 280,000 | 300,000 |
| 19. For civil superannuation and other pensions and non-recurrent payments; and for certain other expenditure in connection therewith - - - - - | 1,450,000 | 150,000 |
| CLASS X | | |
| 1. For the salaries and expenses of the Charity Commission for England and Wales - - - - - | 7,000 | — |
| 2. For the salaries and expenses of the Crown Estate Office - - - - - | 15,000 | — |
| 3. For the salaries and expenses of the Registry of Friendly Societies - - | 1,000 | — |
| 7. For the salaries and expenses of the Office of the Public Trustee - - - - - | 1,000 | 9,000 |
| 12. For the salaries and expenses of the Scottish Record Office - - - | 10,000 | *—4,000 |
| 13. For the salaries and expenses of the Office of the Registrar General - - - | 39,000 | *—52,000 |
| 14. For the salaries and expenses of the Department of the Registrar General of Births, Deaths and Marriages in Scotland | 2,000 | 4,000 |
| CLASS XI | | |
| 1. For grants to, and grants in aid of, the British Broadcasting Corporation and for payments to the Postmaster General | 6,500,000 | — |
| 2. For the salaries and expenses of the Carlisle State Management District - | 1,000 | 44,000 |

* Deficit.

Civil
Departments
(Supple-
mentary),
1967-68.

SCHEDULE (B).—PART 7—continued

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| <i>CLASS XI—continued</i> | | |
| Vote | | |
| 4. For pensions, &c., in respect of service in the former Indian and Burma Services and under the former Government of Palestine, and in respect of certain other service overseas; for supplements to certain colonial and other overseas pensions; for certain payments to the Governments of India and Pakistan in connection with pensions; and for sundry services and expenses - - | 31,000 | — |
| 7. For a grant in aid of the Development Fund - - - - - | 188,000 | — |
| TOTAL, CIVIL DEPARTMENTS (SUPPLEMENTARY) 1967-68 - - - - - | 390,590,000 | 9,506,610 |

SCHEDULE (B).—PART 6

Defence
(Central),
1968-69.

DEFENCE (CENTRAL)

SUM granted, and sum which may be applied as appropriations in aid in addition thereto, to defray the charge of Defence (Central) which will come in course of payment during the year ending on 31st March 1969, viz.:—

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| For the salaries and expenses of the Central Defence Staffs, the Defence Secretariat and the Central Defence Scientific Staff and of certain Joint Service Establishments; purchases of defence equipment for sale abroad; expenses in connection with sales of defence equipment and International Defence Organisations, including international subscriptions; and sundry other services including certain grants in aid - - - | 24,060,000 | 53,579,000 |

Defence (Navy).
1968-69.

SCHEDULE (B).—PART 7

DEFENCE (NAVY)

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the Navy Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, including provision for officers, seamen, juniors and Royal Marines, and members of the Women's Royal Naval Service and Queen Alexandra's Royal Naval Nursing Service, to a number not exceeding 98,000, in addition to reserve forces, viz.:—

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 1. For the pay, &c. of the Royal Navy and Royal Marines - - - - - | 99,657,000 | 3,942,000 |
| 2. For the pay and expenses of the Royal Naval Reserve, the Royal Fleet Reserve and Cadet Forces, &c. - - - - - | 1,480,000 | 2,000 |
| 3. For the salaries, wages and expenses of the Navy Department Headquarters - - | 6,713,000 | 44,000 |
| 4. For scientific services, including a subscription to the International Hydrographic Bureau - - - - - | 34,042,000 | 1,013,000 |
| 5. For medical services, education and civilians on Fleet services - - - - | 19,386,000 | 644,000 |
| 6. For Naval Stores, Armament, Victualling and other Material Supply Services - | 245,837,000 | 19,914,000 |
| 7. For the new construction, repair, &c., of H.M. Ships, Aircraft and Weapons - | 209,194,000 | 7,637,000 |
| 8. For miscellaneous effective services, including grants in aid (including a supplementary sum of £5,000) - - - - | 12,498,000 | 5,424,000 |
| 9. For non-effective services - - - - | 27,006,000 | 97,000 |
| TOTAL, NAVY SERVICES - - - - | 655,813,000 | 38,717,000 |

SCHEDULE (B).—PART 8

Defence (Army),
1968-69.

DEFENCE (ARMY)

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the Army Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, including provision for Land Forces to a number not exceeding 224,500, all ranks, in addition to the Regular Army Reserves, Territorial and Army Volunteer Reserve and Cadet Forces, viz.:—

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 1. For the pay, &c., of the Army - - - | 186,790,000 | 11,960,000 |
| 2. For the Regular Army Reserves (including other ranks to a number not exceeding 50,000), Territorial and Army Volunteer Reserve (to a number not exceeding 101,000 all ranks) (including within these Reserves the Special Army Volunteer Reserve to a number not exceeding 8,700 all ranks) and Cadet Forces - | 4,230,000 | 7,360,000 |
| 3. For salaries, wages, &c., of civilian staff of the Army Department Headquarters | 5,680,000 | 20,000 |
| 4. For salaries, wages, &c., of civilians at outstations - - - - - | 138,470,000 | 2,450,000 |
| 5. For movements - - - - - | 24,230,000 | 940,000 |
| 6. For supplies - - - - - | 22,630,000 | 4,460,000 |
| 7. For stores and equipment (including stores and equipment for research, design and development projects and inspection; and certain capital and ancillary services) | 138,000,000 | 13,000,000 |
| 8. For miscellaneous effective services, including grants in aid - - - - - | 8,400,000 | 12,840,000 |
| 9. For non-effective services, including a grant in aid - - - - - | 49,170,000 | 210,000 |
| 10. For lands and buildings and certain ancillary services - - - - - | 23,150,000 | 13,820,000 |
| TOTAL, ARMY SERVICES - - - | 600,750,000 | 67,060,000 |
| Defence (Royal Ordnance Factories). For operating the Royal Ordnance Factories | 3,000,000 | 42,700,000 |
| Defence (Army) Purchasing (Repayment) Services. For expenditure incurred by the Army Department on the supply of munitions, common-user and other articles for the Government service and on miscellaneous supply - - - - - | 3,000,000 | — |

Defence (Air),
1968-69.

SCHEDULE (B).—PART 9

DEFENCE (AIR)

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the Air Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, including provision for officers, airmen and airwomen for Air Force Service to a number not exceeding 125,000, all ranks, in addition to reserve and auxiliary services and cadet forces, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the pay, &c., of the Air Force - - | 144,060,000 | 9,239,000 |
| 2. For Reserve and Auxiliary Services and Cadet Forces (to a number not exceeding 17,720, all ranks, for the Royal Air Force Reserve, and 600, all ranks, for the Royal Auxiliary Air Force) - - - - | 900,000 | 334,000 |
| 3. For salaries, wages, &c., of civilian staff of the Air Force Department Headquarters | 4,070,000 | 7,000 |
| 4. For salaries, wages, &c., of civilians at out-stations and the Meteorological Office - | 52,430,000 | 3,930,000 |
| 5. For movements - - - - - | 12,800,000 | 3,100,000 |
| 6. For supplies - - - - - | 34,270,000 | 5,400,000 |
| 7. For aircraft and stores - - - - - | 270,900,000 | 17,200,000 |
| 8. For miscellaneous effective services, including certain grants in aid and a subscription to the World Meteorological Organisation - - - - - | 3,440,000 | 9,620,000 |
| 9. For non-effective services - - - - - | 34,450,000 | 220,000 |
| TOTAL, AIR SERVICES - - - - - | 557,320,000 | 49,050,000 |

SCHEDULE (B).—PART 10

Civil,
Class I,
1968-69.

CIVIL.—CLASS I

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the House of Lords - - - - - | 450,000 | 8,000 |
| 2. For the salaries and expenses of the House of Commons, including certain grants in aid (including a supplementary sum of £4,000) - - - - - | 3,244,000 | 7,000 |
| 3. For the salaries and expenses of the Department of Her Majesty's Treasury and subordinate departments and of the First Secretary of State, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster, and the Minister without Portfolio - - - - - | 6,148,000 | 306,000 |
| 4. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Economic Affairs and of the National Economic Development Council, and for certain grants in aid (Revised sum) | 2,106,000 | 500 |
| 5. For the salaries and expenses of the Department of Her Majesty's Most Honourable Privy Council (including a supplementary sum of £35,000) - - - - - | 116,000 | 3,000 |
| 6. For the salaries of Post Office Ministers - | 12,250 | — |
| 7. For the salaries and expenses of the Customs and Excise Department, including a subscription to an international organisation - - - - - | 32,516,000 | 1,852,000 |
| 8. For the salaries and expenses of the Inland Revenue Department - - - - - | 87,446,000 | 3,895,000 |

Civil,
Class I,
1968-69.

SCHEDULE (B).—PART 10—*continued*

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 9. For transitional relief under the Finance Act 1965 for companies with an overseas source of trading income - - - | 45,000,000 | — |
| 10. For the salaries and expenses of the Department of the Comptroller and Auditor General - - - - - | 977,000 | 212,000 |
| 11. For the salaries and expenses of the Civil Service Commission - - - - - | 1,358,000 | 475,000 |
| 12. For the salaries and expenses of Royal Commissions, committees, special enquiries, &c., and for a grant in aid - | 632,000 | — |
| 13. For the salaries and expenses of the Office of the Parliamentary Commissioner for Administration - - - - - | 139,000 | — |
| TOTAL, CIVIL, CLASS I - - - -£ | 180,144,250 | 6,758,500 |

SCHEDULE (B).—PART 11

Civil,
Class II,
1968-69.

CIVIL.—CLASS II

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the offices of Her Majesty's Secretary of State for Foreign Affairs and of Her Majesty's Secretary of State for Commonwealth Affairs; Her Majesty's Diplomatic Service; and sundry other services connected therewith - - - - | 46,897,000 | 4,720,000 |
| 2. For expenditure by the Foreign Office on sundry grants and services, including subscriptions, &c., to certain international organisations and certain grants in aid (including a Supplementary sum of £826,000) - - - - | 19,875,000 | 404,000 |
| 3. For a grant in aid of the British Council - | 5,013,000 | — |
| 4. For expenditure by the Commonwealth Office on sundry grants and services, including subscriptions to certain international organisations and certain grants in aid (including a Supplementary sum of £2,769,000) - - - - | 16,886,000 | 338,000 |
| 5. For the salaries and expenses of the Ministry of Overseas Development, including refund of selective employment tax to the Commonwealth Development Corporation - - - | 2,994,000 | 51,000 |
| 6. For expenditure by the Ministry of Overseas Development on grants and services connected with multilateral overseas aid, including subscriptions to certain international organisations and certain grants in aid (including a Supplementary sum of £2,799,000) - - - - | 18,263,000 | — |
| 7. For expenditure by the Ministry of Overseas Development on grants and services connected with bilateral overseas aid, including certain grants in aid (including a Supplementary sum of £1,513,000) - | 110,475,000 | 355,000 |

Civil,
Class II,
1968-69.

SCHEDULE (B).—PART 11—*continued*

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 8. For expenditure by the Ministry of Overseas Development on sundry services connected with overseas aid, including certain grants in aid (including a Supplementary sum of £10,000) - - - | 29,574,000 | 1,633,000 |
| 9. For schemes and loans made under the Colonial Development and Welfare Acts 1959 to 1965 and for loans made to the Commonwealth Development Corporation under the Overseas Resources Development Acts 1959 and 1963 - | 20,000,000 | — |
| 10. For a grant in aid of the Commonwealth War Graves Commission and certain other expenses - - - - - | 1,700,000 | — |
| TOTAL, CIVIL, CLASS II - - - -£ | 271,677,000 | 7,501,000 |

SCHEDULE (B).—PART 12

Civil,
Class III,
1968-69.

CIVIL.—CLASS III

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the office of Her Majesty's Secretary of State for the Home Department; expenses and grants in connection with certain law, fire and sundry other services; and certain grants in aid - - - - - | 25,889,000 | 5,434,000 |
| 2. For the salaries and expenses of the office of the Secretary of State for Scotland and of the Scottish Home and Health Department; for a grant to the Legal Aid (Scotland) Fund; for expenses in connection with fire, probation and sundry other services; and for grants in aid - - - - - | 4,453,000 | 240,000 |
| 3. For grants and expenses in connection with civil defence and certain remanet expenditure; and for a grant in aid - - - - - | 8,457,000 | 192,000 |
| 4. For grants and expenses in connection with civil defence in Scotland and certain remanet expenditure - - - - - | 859,000 | 31,010 |
| 5. For grants in respect of expenditure incurred by police authorities in England and Wales, expenses in connection with the police services and a subscription to an international organisation - - - - - | 120,098,000 | 2,646,000 |
| 6. For grants in respect of expenditure incurred by police authorities in Scotland, and expenses in connection with the police services - - - - - | 11,376,000 | 242,000 |
| 7. For the salaries and expenses of prison service establishments in England and Wales - - - - - | 36,935,000 | 4,106,000 |
| 8. For the salaries and expenses of prison service establishments in Scotland - - - - - | 4,137,000 | 380,000 |
| 9. For grants and expenses in England and Wales in respect of approved schools, remand homes and voluntary homes, and for training in and research on child care - - - - - | 6,916,000 | 160,000 |

Civil,
Class III,
1968-69.

SCHEDULE (B).—PART 12—*continued*

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| • 10. For grants and expenses in Scotland in respect of approved schools, remand homes and voluntary homes and for training in and research on child care - | 1,319,000 | 15,000 |
| 11. For such of the salaries and expenses of the Supreme Court of Judicature, Law Commission and Courts-Martial Appeal Court as are not charged on the Consolidated Fund; the salaries and expenses of the Judge Advocate General and Judge Advocate of the Fleet, Pensions Appeal Tribunals, the Lands Tribunal, the Restrictive Practices Court and Council on Tribunals, and certain other expenses - - - - - | 208,000 | 3,819,000 |
| 12. For the salaries and expenses of the County Courts - - - - - | 1,000 | 7,148,000 |
| 13. For a grant to the Legal Aid Fund - - - - - | 8,821,000 | — |
| 14. For the salaries and expenses of the Law Officers' Department, the Department of Her Majesty's Procurator-General and Solicitor for the Affairs of Her Majesty's Treasury and the Department of the Director of Public Prosecutions; for the costs of prosecutions and other legal proceedings and of Parliamentary Agency - - - - - | 1,197,000 | 502,000 |
| 15. For the salaries and expenses of the Lord Advocate's Department, of the Courts of Law and Justice, of the Scottish Law Commission, and of the Courts, Tribunals, &c.; and for sundry services - - - - - | 642,000 | 905,000 |
| 16. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal of Northern Ireland as are not charged on the Consolidated Fund; the salaries and expenses of Pensions Appeals in Northern Ireland and certain other expenses - - - - - | 116,000 | 53,000 |
| TOTAL, CIVIL, CLASS III - - - - - | 231,424,000 | 25,873,010 |

SCHEDULE (B).—PART 13

Civil,
Class IV,
1968-69.

CIVIL.—CLASS IV

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the Ministry of Transport, and certain Tribunals and Committees - - - | 4,280,000 | 9,194,000 |
| 2. For the expenditure of the Ministry of Transport in grant to the British Railways Board, the London Transport Board and the British Waterways Board in respect of deficits on their revenue accounts - - - - - | 149,700,000 | — |
| 3. For services connected with inland transport, including repayments &c., of selective employment tax to the nationalised transport undertakings; for expenditure on grants for the assistance of public passenger transport; ports, a Channel Tunnel, Governmental shipping services, and sundry other services, including subscriptions to certain international organisations (including a Supplementary sum of £14,200,000) - - - - - | 72,770,000 | 355,000 |
| 4. For expenditure, including grants and loans to highway authorities on the construction, improvement and maintenance of roads, &c., in England and sundry services connected therewith; for expenditure on the collection of motor vehicle duties, &c., and the registration of motor vehicles in Great Britain; for road research; and for sundry other services - - - - - | 251,100,000 | 12,200,000 |
| 5. For expenditure, including grants and loans to highway, &c., authorities, on the construction, improvement and maintenance of roads, &c., in Scotland and sundry services connected therewith; for expenditure on grants for the assistance of public passenger transport; and for sundry other transport services - | 34,838,000 | 219,000 |

Civil,
Class IV,
1968-69.

SCHEDULE (B).—PART 13—*continued*

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 6. For expenditure, including grants to highway, &c., authorities on the construction, improvement and maintenance of roads, &c., in Wales and sundry services connected therewith; for expenditure on grants for the assistance of public passenger transport; and for sundry other transport services - - - - | 13,891,000 | 16,000 |
| 7. For the salaries and expenses of the Department of Her Majesty's First Secretary of State and Secretary of State for Employment and Productivity including those relating to the Employment Exchange service and the inspection of factories; for expenses, grants and loans in connection with employment, training, rehabilitation, &c.; for expenses of the National Board for Prices and Incomes and the Industrial Court; for a subscription to the International Labour Organisation, a grant in aid and sundry other services (Revised sum) - - - - | 55,012,000 | 12,171,000 |
| 8. For payments by the Department of Employment and Productivity to certain employers who have paid selective employment tax (including a Supplementary sum of £78,000,000) - - | 693,000,000 | 1,000 |
| 9. For the salaries and expenses of the office of the Committee of Privy Council for Trade and subordinate departments and agencies - - - - | 12,134,000 | 7,185,000 |
| 10. For the construction, maintenance and operation of civil aerodromes, for civil air navigational services, for loans and services connected with shipping, for contributions &c., to certain international organisations, certain repayments, &c., of selective employment tax; and for sundry other services - - | 36,416,000 | 11,291,000 |
| 11. For the expenditure of the Board of Trade on the promotion of trade, exports and industrial efficiency, and on trading and other services, including loans, subscriptions to certain international organisations and grants in aid (including a Supplementary sum of £250,000) - - | 12,800,000 | 139,000 |

SCHEDULE (B).—PART 13—*continued*

Civil,
Class IV,
1968-69.

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 12. For the promotion of local employment - | 49,000,000 | 350,000 |
| 13. For the expenditure of the Board of Trade on grants for assisting investment in new business assets - - - - - | 380,000,000 | — |
| 14. For the salaries and expenses of the Export Credits Guarantee Department, including a subscription to an international organisation, and for payments under guarantees given after consultation with the Export Guarantees Advisory Council | 1,269,000 | 17,895,000 |
| 15. For payments under Special Guarantees given or arising from other arrangements made by the Board of Trade in the national interest and for advances to the Acquisition of Guaranteed Securities Fund - - - - - | 12,898,000 | 6,395,000 |
| 16. For expenditure by the Department of Economic Affairs on Exchequer investment in the Industrial Reorganisation Corporation - - - - - | 25,000,000 | — |
| 17. For the salaries and expenses of the Ministry of Power; for expenditure on oil storage and distribution; for assistance to the coal industry; for certain repayments, &c., of selective employment tax; for expenses in connection with the nationalisation of the Iron and Steel Industry; and for sundry other services (including a Supplementary sum of £17,187,000) - - - - - | 85,620,000 | 2,818,000 |
| 18. For the salaries and expenses of the Ministry of Technology, including the administration of research, development and inspection - - - - - | 56,305,000 | 152,000 |
| 19. For the expenditure of the Ministry of Technology on technological and industrial services, including certain subscriptions to international organisations and grants in aid (including a Supplementary sum of £4,350,000) - | 34,625,000 | 1,708,000 |

Civil,
Class IV,
1968-69.

SCHEDULE (B).—PART 13—*continued*

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 20. For expenditure by the Ministry of Technology on supply services (including research, development and inspection), and in connection with the development and production of civil aircraft and associated safety equipment, on a contribution to an international organisation, a loan, a grant in aid, the purchase of the undertaking of a company and sundry other items - - - - | 252,170,000 | 36,190,000 |
| 21. For expenditure by the Ministry of Technology on the supply of aircraft and other equipment for the Government service and on miscellaneous supply - | 22,750,000 | — |
| 22. For certain expenditure by the Ministry of Technology on the purchase of U.S. aircraft and for research and development connected therewith - - - | 1,000 | 170,999,000 |
| 23. For payments to the United Kingdom Atomic Energy Authority for outstanding liabilities in respect of the capital cost of plant being maintained as reserve capacity, and certain terminal expenses, and for payments to the Authority and to others for special materials and services - - - - - | 30,800,000 | — |
| 24. For payments towards meeting the expenses of the United Kingdom Atomic Energy Authority, for subscriptions, &c., to international projects and organisations, for the administration of a national stockpile of uranium ore, for a grant in aid, and for repayment, &c., of selective employment tax to the Atomic Energy Authority Trading Fund - - - - - | 29,508,000 | 55,362,000 |
| 25. For loans to the United Kingdom Atomic Energy Authority Trading Fund - - | 1,000 | — |
| 26. For repayments of selective employment tax to the Postmaster General and to Cable and Wireless Ltd. (including a Supplementary sum of £7,435,000) - | 31,100,000 | — |
| TOTAL, CIVIL, CLASS IV - | -£2,346,988,000 | 344,640,000 |

SCHEDULE (B).—PART 14

Civil,
Class V,
1968-69.

CIVIL.—CLASS V

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the Ministry of Agriculture, Fisheries and Food; of the Royal Botanic Gardens, Kew; of the White Fish Authority and Scottish Committee; of the Plant Variety Rights Office; and of the Meat and Livestock Commission - - | 31,534,000 | 1,088,000 |
| 2. For the salaries and expenses of the Department of Agriculture and Fisheries for Scotland; for expenditure in connection with sundry agricultural, food and harbour services, the development of the Highlands and Islands and rural development elsewhere, including grants, loans and grants in aid; and for refunds of selective employment tax to agricultural, horticultural and forestry employers - | 16,776,000 | 1,448,000 |
| 3. For expenditure by the Ministry of Agriculture, Fisheries and Food on grants and subsidies for the encouragement of food production and the improvement of agriculture and for sundry other services - | 100,960,000 | 40,000 |
| 4. For expenditure by the Department of Agriculture and Fisheries for Scotland on grants and subsidies for the encouragement of food production and the improvement of agriculture - - | 27,100,000 | — |
| 5. For expenditure by the Ministry of Agriculture, Fisheries and Food in implementation of agricultural price guarantees and for sundry other services | 131,450,000 | 50,000 |
| 6. For expenditure by the Department of Agriculture and Fisheries for Scotland in implementation of agricultural price guarantees - - - - - | 15,020,000 | — |

Civil,
Class V,
1968-69.

SCHEDULE (B).—PART 14—*continued*

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 7. For expenditure by the Ministry of Agriculture, Fisheries and Food in connection with sundry agricultural and food services, and rural development, including grants, loans, grants in aid, certain subscriptions to international organisations and for refunds of selective employment tax to agricultural, horticultural and forestry employers (including a Supplementary sum of £3,450,000) - | 47,635,000 | 4,238,000 |
| 8. For expenditure by the Ministry of Agriculture, Fisheries and Food in connection with the procurement and maintenance of strategic reserves - | 1,000 | 5,999,000 |
| 9. For grants, loans and expenses in connection with assistance to fishermen; grants and loans to the White Fish Authority; expenditure on research and development relating to fisheries and fish marketing and on the construction, improvement and maintenance of harbours and fishing facilities; subscriptions to certain international organisations and a grant in aid of the White Fish Marketing Fund - - | 6,479,000 | 4,000 |
| 10. In connection with Scottish fisheries and the United Kingdom herring industry for grants, loans and expenses in connection with assistance to fishermen, fishery protection, research and development relating to fisheries and fish marketing and the construction, improvement and maintenance of harbours and fishing facilities; and a grant in aid of the Herring Marketing Fund - - - | 2,720,000 | 11,000 |
| 11. For a grant in aid of the Forestry Fund - | 15,408,000 | — |
| TOTAL, CIVIL, CLASS V - - - | £ 395,083,000 | 12,878,000 |

SCHEDULE (B).—PART 15

Civil,
Class VI,
1968-69.

CIVIL.—CLASS VI

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the Ministry of Housing and Local Government and certain tribunals, commissions &c.; grants and expenses in connection with environmental services and civil defence; tax and rating payments including selective employment refunds; sundry other services; a subscription to an international organisation and grants in aid (including a Supplementary sum of £23,223,000) - - - - - | 148,442,000 | 1,920,000 |
| 2. For the salaries and expenses of the Scottish Development Department and certain tribunals, &c.; for grants and payments in connection with environmental services, selective employment refunds and rate rebates, assistance to the coal industry, storm damage relief and sundry other services, including grants in aid (including a Supplementary sum of £2,801,000) - - - - - | 22,639,000 | 27,930 |
| 3. For the salaries and expenses of the office of the Secretary of State for Wales and certain tribunals, &c.; grants and expenses in connection with environmental services and civil defence; expenses in connection with the investiture of the Prince of Wales; tax and rating payments including selective employment refunds; and sundry other services and grants in aid (including a Supplementary sum of £1,430,000) - - - - - | 10,303,000 | 32,000 |
| 4. For grants and other payments relating to the provision, improvement, repair and purchase of housing accommodation in England (including a Supplementary sum of £13,000) - - - - - | 123,519,000 | 1,150,000 |

Civil,
Class VI,
1968-69.

SCHEDULE (B).—PART 15—*continued*

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 5. For grants and other payments relating to the provision, improvement, repair and purchase of housing accommodation in Scotland - - - - - | 30,215,000 | 242,000 |
| 6. For grants and other payments relating to the provision, improvement, repair and purchase of housing accommodation in Wales - - - - - | 7,232,000 | 91,000 |
| 7. For rate support grants and rate deficiency grants to local authorities in England and Wales - - - - - | 1,409,224,000 | — |
| 8. For rate support grants, general grants and equalisation grants to local authorities in Scotland - - - - - | 163,777,000 | — |
| 9. For the salaries and expenses of the Land Commission - - - - - | 1,287,000 | 814,000 |
| 10. For the salaries and expenses of the Ministry of Health; for the expenses of certain committees, &c.; and for sundry services - - - - - | 7,822,000 | 3,197,000 |
| 11. For the provision of hospital services, &c., under the National Health Service, &c., in England and Wales; and other services (including a Supplementary sum of £17,400,000) - - - - - | 767,726,000 | 122,640,000 |
| 12. For the provision of Executive Councils' services, &c., under the National Health Service in England and Wales - - - | 298,015,000 | 49,231,000 |
| 13. For the provision in England and Wales of certain miscellaneous services under the National Health Service, &c., and of certain welfare services; and for a subscription to the World Health Organisation and certain grants in aid - - - | 51,302,000 | 2,147,000 |
| 14. For expenditure by the Ministry of Health on pensions, allowances, gratuities, &c., payable under section 6(6) of the National Health Service Act 1946, or under Regulations made under Section 67 of that Act; and certain payments to the National Insurance Fund - - - | 1,000 | 34,959,000 |
| 15. For the provision of services under the National Health Service in Scotland and other health and welfare services including a grant in aid - - - - - | 141,979,000 | 19,094,000 |

SCHEDULE (B).—PART 15—continued

Civil,
Class VI,
1968-69.

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 16. For expenditure by the Scottish Home and Health Department on pensions, allowances and gratuities, &c., payable under Section 6(8) of the National Health Service (Scotland) Act 1947 or under Regulations made under Section 66 of that Act; and certain payments to the National Insurance Fund - - - | 1,000 | 4,185,000 |
| 17. For the salaries and expenses of the Ministry of Social Security including appellate, advisory and sundry other services, for certain selective employment refunds and a subscription to an international organisation (including a Supplementary sum of £5,500,000) - | 47,680,000 | 61,300,000 |
| 18. For sums payable by the Exchequer to the National Insurance Fund and the Industrial Injuries Fund - - - - | 361,000,000 | — |
| 19. For payments in respect of family allowances (including a Supplementary sum of £25,000,000) - - - - | 297,960,000 | 40,000 |
| 20. For supplementary pensions and allowances - - - - | 394,000,000 | 10,000,000 |
| 21. For payments in respect of pensions, gratuities and allowances for disablement or death arising out of war, or service in the Armed Forces after 2 September 1939, and for sundry other services - | 126,308,000 | 12,000 |
| TOTAL, CIVIL, CLASS VI - - - £ | 4,410,432,000 | 311,081,930 |

Civil,
Class VII,
1968-69.

SCHEDULE (B).—PART 16

CIVIL.—CLASS VII

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Education and Science; for grants and loans in connection with education, &c.; for sundry services; for a subscription to an international organisation and for certain grants in aid - | 70,010,000 | 579,000 |
| 2. For the salaries and expenses of the Scottish Education Department; for grants in connection with education, &c.; for sundry services and for a grant in aid - | 32,840,000 | 45,000 |
| 3. For expenditure by the Department of Her Majesty's Secretary of State for Education and Science on superannuation allowances and gratuities, &c., in respect of teachers - - - - | 1,000 | 70,436,000 |
| 4. For expenditure by the Scottish Education Department on superannuation allowances and gratuities, &c., in respect of teachers - - - - | 2,609,000 | 9,499,000 |
| 5. For the salaries and expenses of the University Grants Committee, for grants in aid and grants towards the expenses of, and for loans to, universities, colleges, the British Academy, &c., and for other services - - - - | 243,793,000 | — |
| 6. For a grant in aid of the Social Science Research Council - - - - | 1,728,000 | — |
| 7. For grants in aid of the Science Research Council including subscriptions to certain international organisations - | 41,916,000 | — |
| 8. For grants in aid of the Natural Environment Research Council including a subscription to an international organisation - | 8,994,000 | — |
| 9. For grants in aid of the Medical Research Council including a subscription to an international organisation - - - - | 15,339,000 | — |
| 10. For a grant in aid of the Agricultural Research Council - - - - | 13,172,000 | — |

SCHEDULE (B).—PART 16—continued

Civil,
Class VII,
1968-69.

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 11. For the salaries and expenses of the British Museum (Natural History), including a purchase grant in aid - - - - | 1,011,000 | 23,000 |
| 12. For grants in aid of certain institutions and bodies concerned with science and for services connected therewith - - | 1,354,000 | — |
| TOTAL, CIVIL, CLASS VII - - -£ | 432,767,000 | 80,582,000 |

Civil,
Class VIII,
1968-69.

SCHEDULE (B).—PART 17

CIVIL.—CLASS VIII

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the British Museum, including a purchase grant in aid - - - - - | 2,460,000 | 142,000 |
| 2. For the salaries and expenses of the Science Museum - - - - - | 613,000 | 3,000 |
| 3. For the salaries and expenses of the Victoria and Albert Museum, including purchase grants in aid - - - - - | 1,046,000 | 20,000 |
| 4. For the salaries and expenses of the Imperial War Museum, including a purchase grant in aid - - - - - | 203,000 | 15,000 |
| 5. For the salaries and expenses of the London Museum, including a purchase grant in aid - - - - - | 101,000 | 2,100 |
| 6. For the salaries and expenses of the National Gallery, including a purchase grant in aid - - - - - | 442,000 | 4,000 |
| 7. For the salaries and expenses of the National Maritime Museum, including a purchase grant in aid - - - - - | 232,000 | 2,000 |
| 8. For the salaries and expenses of the National Portrait Gallery, including purchase grants in aid - - - - - | 94,000 | 11,000 |
| 9. For the salaries and expenses of the Tate Gallery, including purchase grants in aid - - - - - | 322,000 | 9,000 |
| 10. For the salaries and expenses of the Wallace Collection - - - - - | 80,000 | 7,500 |
| 11. For the salaries and expenses of the Royal Scottish Museum, including purchase grants in aid, certain other grants in aid and a grant to the Scottish Council for Museums and Galleries - - - - - | 236,000 | 400 |
| 12. For the salaries and expenses of the National Gallery of Scotland, the Scottish National Gallery of Modern Art and the Scottish National Portrait Gallery, including purchase grants in aid | 155,000 | 4,500 |

SCHEDULE (B).—PART 17—continued

Civil,
Class VIII,
1968-69.

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 13. For the salaries and expenses of the National Library of Scotland, including a purchase grant in aid - - - - | 207,000 | 5,500 |
| 14. For the salaries and expenses of the National Museum of Antiquities of Scotland, including a purchase grant in aid - - - - - | 57,000 | 200 |
| 15. For grants in aid of the National Library of Wales and the National Museum of Wales and a grant to the Council of Museums in Wales - - - - - | 599,000 | — |
| 16. For grants to, and grants in aid of, certain institutions and bodies connected with the arts - - - - - | 8,394,000 | — |
| TOTAL, CIVIL, CLASS VIII - - - - - | 15,241,000 | 226,200 |

Civil,
Class IX,
1968-69.

SCHEDULE (B).—PART 18

CIVIL.—CLASS IX

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| Vote | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| 1. For the salaries and expenses of the Ministry of Public Building and Works | 43,000,000 | 11,300,000 |
| 2. For expenditure on public building and accommodation services, &c., in the United Kingdom, including grants in aid and sundry other services; on Ancient Monuments; and on Building Research and Development (including a supplementary sum of £1,000) - - | 86,349,000 | 13,304,030 |
| 2A. To defray the cost of a memorial to the memory of the late Sir Winston Churchill - - - - | 11,000 | — |
| 3. For expenditure on public building and accommodation services, &c., overseas | 9,390,000 | 685,000 |
| 4. For expenditure on works and buildings for the Ministry of Defence (Navy Department) - - - - | 37,450,000 | 170,000 |
| 5. For expenditure on works and buildings for the Ministry of Defence (Army Department) - - - - | 76,260,000 | 1,110,000 |
| 6. For expenditure on works and buildings for the Ministry of Defence (Air Force Department) - - - - | 52,700,000 | 10,005,000 |
| 7. For expenditure on certain works and buildings for the Ministry of Technology and for civil aviation services - - | 6,900,000 | — |
| 8. For the salaries and expenses of the Rating of Government Property Department, and for rates and contributions in lieu of rates for property occupied by the Crown and premises occupied by representatives of Commonwealth and foreign countries and international organisations | 36,542,000 | 1,930,000 |
| 9. For the salaries and expenses of the Stationery Office; for stationery, printing, books, office equipment, &c.; for official publications; and for sundry services - | 36,739,000 | 18,156,010 |

SCHEDULE (B).—PART 18—*continued*

Civil,
Class IX,
1968-69.

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 10. For the salaries and expenses of the Central Office of Information - - - | 10,700,000 | 3,015,000 |
| 11. For the salaries and expenses of the Department of the Government Actuary - - | 70,000 | 47,000 |
| 12. For a grant in aid of the Government Hospitality Fund - - - - | 200,000 | — |
| 13. For the salaries and expenses of the Government Social Survey Department | 880,000 | — |
| 14. For civil superannuation and other pensions and non-recurrent payments; and for certain other expenditure in connection therewith - - - - | 65,473,000 | 3,780,000 |
| 15. For non-effective annual allowances, gratuities and certain expenses in connection with superannuation in respect of Post Office employment - - - - | 1,000 | 39,849,000 |
| TOTAL, CIVIL, CLASS IX - - - -£ | 462,665,000 | 103,351,040 |

Civil,
Class X,
1968-69.

SCHEDULE (B).—PART 19

CIVIL.—CLASS X

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz.:—

| | Sums not exceeding | |
|---|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 1. For the salaries and expenses of the Charity Commission for England and Wales - | 445,000 | 200 |
| 2. For the salaries and expenses of the Crown Estate Office - - - - - | 231,000 | — |
| 3. For the salaries and expenses of the Registry of Friendly Societies - - - - - | 168,000 | 13,000 |
| 4. For the salaries and expenses of the Royal Mint in the production of coins, medals, badges, dies, seals, &c.; for the withdrawal of coin, and in preparation for the introduction of a decimal coinage - | 6,476,000 | 20,900,000 |
| 5. For the salaries and expenses of the National Debt Office and Pensions Commutation Board - - - - - | 1,000 | 104,000 |
| 6. For the salaries and expenses of the establishment under the Public Works Loan Commission and the expenses of the Commission - - - - - | 1,000 | 69,000 |
| 7. For the salaries and expenses of the office of the Public Trustee - - - - - | 1,000 | 807,000 |
| 8. For the salaries and expenses of the Land Registry - - - - - | 1,000 | 4,685,000 |
| 9. For the salaries and expenses of the Office of the Registrar of Restrictive Trading Agreements - - - - - | 167,000 | 100 |
| 10. For the survey of Great Britain and other mapping services - - - - - | 5,209,000 | 2,312,000 |
| 11. For the salaries and expenses of the Public Record Office - - - - - | 264,000 | 73,000 |
| 12. For the salaries and expenses of the Scottish Record Office - - - - - | 110,000 | 26,000 |
| 13. For the salaries and expenses of the Office of the Registrar General - - - - - | 1,136,000 | 684,000 |

SCHEDULE (B).—PART 19—continued

Civil,
Class X,
1968-69.

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 14. For the salaries and expenses of the Department of the Registrar General of Births, Deaths and Marriages in Scotland - | 206,000 | 73,000 |
| 15. For the salaries and expenses of the Department of the Registers of Scotland | 1,000 | 348,000 |
| 16. For the salaries and expenses, including publicity, of the National Savings Committee - - - - - | 1,777,000 | — |
| 17. For the salaries and expenses of the Decimal Currency Board - - - | 75,000 | — |
| TOTAL, CIVIL, CLASS X - - - -£ | 16,269,000 | 30,094,300 |

Civil,
Class XI,
1968-69.

SCHEDULE (B).—PART 20

CIVIL.—CLASS XI

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1969, viz. :—

| | Sums not exceeding | |
|--|--------------------|-----------------------|
| | Supply Grants | Appropriations in Aid |
| | £ | £ |
| Vote | | |
| 1. For grants to, and grants in aid of, the British Broadcasting Corporation and for payments to the Postmaster General - | 92,641,000 | 448,000 |
| 2. For the salaries and expenses of the Carlisle State Management District - - - | 1,000 | 3,088,000 |
| 3. For the salaries and expenses of the State Management Districts in Scotland - - | 1,000 | 759,000 |
| 4. For pensions, &c., in respect of service in the former Indian and Burma Services and under the former Government of Palestine, and in respect of certain other service overseas; for supplements to certain colonial and other overseas pensions; for certain payments to the Governments of India and Pakistan in connection with pensions; and for sundry services and expenses - - - - | 10,400,000 | 783,000 |
| 5. For pensions, &c., and compensation allowances awarded to retired and disbanded members of the Royal Irish Constabulary, and to their widows, including annuities to the National Debt Commissioners in respect of commutation of compensation allowances - - | 905,000 | — |
| 6. For charges in connection with land purchase in Northern Ireland, and the expenses of management of guaranteed stocks and bonds issued for the purpose of Irish land purchase - - - | 750,000 | 100 |
| 7. For a grant in aid of the Development Fund | 1,686,000 | — |
| 8. For Her Majesty's foreign and other secret services - - - - - | 10,500,000 | — |
| 9. For certain miscellaneous expenses, a subscription to an international organisation and grants in aid - - - - | 1,232,000 | 65,000 |
| 10. To repay to the Civil Contingencies Fund certain miscellaneous advances - - | 51,000 | — |
| TOTAL, CIVIL, CLASS XI - - - - | 118,167,000 | 5,143,100 |

SCHEDULE (C).—PART 1

| Navy Services 1966-67, Votes | Deficits | | | | Surpluses | | | |
|--|---|-------|--|-------|--|-------|---|-------|
| | Excesses of Actual over Estimated Gross Expenditure | | Deficiencies of Actual as compared with Estimated Receipts | | Surpluses of Estimated over Actual Gross Expenditure | | Surpluses of Actual as compared with Estimated Receipts | |
| | £ | s. d. | £ | s. d. | £ | s. d. | £ | s. d. |
| 1. Pay, &c., of the Royal Navy and Royal Marines | — | | — | | 420,480 | 12 10 | 225,583 | 2 9 |
| 2. Royal Naval Reserves | 41,773 | 7 5 | — | | — | | 805 | 17 1 |
| 3. Navy Department Headquarters... .. | 382,474 | 19 8 | — | | — | | 14,402 | 8 11 |
| 4. Research and Develop- ment and other Scientific Services ... | 664,718 | 12 6 | 185,023 | 4 8 | — | | — | |
| 5. Medical Services, Edu- cation and Civilians on Fleet Services ... | 86,974 | 1 5 | — | | — | | 60,586 | 10 7 |
| 6. Naval Stores, Arma- ment, Victualling and other Material Supply Services ... | — | | 448,776 | 12 5* | 2,416,308 | 16 11 | — | |
| 7. H.M. Ships, Aircraft and Weapons, New Construction and Repairs | — | | — | | 8,130,033 | 6 1 | 1,692,210 | 4 8 |
| 8. Miscellaneous Effective Services | 880,259 | 18 5 | 208,729 | 7 9 | — | | — | |
| 9. Non-Effective Services | 46,515 | 0 1 | — | | — | | 58,627 | 17 4 |

*This deficiency of receipts was wholly offset by a surplus of estimated over actual gross expenditure.

SCHEDULE (C).—PART 2

| Army Services 1966-67, Votes | Deficits | | | | Surpluses | | | |
|--|---|-------|--|-------|--|-------|---|-------|
| | Excesses of Actual over Estimated Gross Expenditure | | Deficiencies of Actual as compared with Estimated Receipts | | Surpluses of Estimated over Actual Gross Expenditure | | Surpluses of Actual as compared with Estimated Receipts | |
| | £ | s. d. | £ | s. d. | £ | s. d. | £ | s. d. |
| 1. Pay, &c., of the Army | 283,584 | 4 6 | — | | — | | 29,441 | 15 2 |
| 2. Reserve Forces, Territorial Army and Cadet Forces | 34,395 | 9 9 | 120,120 | 12 6 | — | | — | |
| 3. Army Department Headquarters ... | — | | 6,552 | 19 3* | 11,632 | 10 2 | — | |
| 4. Civilians at Out- stations | — | | — | | 59,918 | 19 0 | 184,341 | 9 11 |
| 5. Movements | — | | — | | 87,734 | 17 5 | 80,478 | 0 8 |
| 6. Supplies | — | | 252,618 | 18 0* | 507,137 | 1 2 | — | |
| 7. Stores and Equip- ment | — | | 828,552 | 19 1* | 169,197 | 14 11 | — | |
| 8. Miscellaneous Effec- tive Services ... | — | | — | | 156,226 | 5 10 | 119,541 | 5 5 |
| 9. Non-Effective Ser- vices | 328,029 | 17 3 | — | | — | | 25,179 | 19 6 |
| 10. Defence Lands and Buildings | — | | — | | 1,863,861 | 1 8 | 63,269 | 10 1 |

* These deficiencies of receipts were wholly or partially offset by surpluses of estimated over actual gross expenditure.

SCHEDULE (C).—PART 3

| Air Services 1966-67, Votes | Deficits | | | | Surpluses | | | |
|--|---|-------|--|-------|--|-------|---|-------|
| | Excesses of Actual over Estimated Gross Expenditure | | Deficiencies of Actual as compared with Estimated Receipts | | Surpluses of Estimated over Actual Gross Expenditure | | Surpluses of Actual as compared with Estimated Receipts | |
| | £ | s. d. | £ | s. d. | £ | s. d. | £ | s. d. |
| 1. Pay, &c., of the Air Force | — | | — | | 679,014 | 1 6 | 540,074 | 0 9 |
| 2. Reserve and Auxiliary Services | — | | — | | 25,567 | 15 7 | 575 | 8 8 |
| 3. Air Force Department Headquarters ... | 63,823 | 11 10 | 2,871 | 2 8 | — | | — | |
| 4. Civilians at Outstations and the Meteorological Office | 2,545,990 | 9 1 | 379,237 | 8 1 | — | | — | |
| 5. Movements | 538,111 | 4 8 | — | | — | | 76,100 | 9 7 |
| 6. Supplies | — | | — | | 222,858 | 4 10 | 150,409 | 6 4 |
| 7. Aircraft and Stores ... | — | | — | | 23,659,679 | 2 11 | 2,818,993 | 10 3 |
| 8. Miscellaneous Effective Services | — | | — | | 298,774 | 14 8 | 332,422 | 12 3 |
| 9. Non-Effective Services | — | | 10,546 | 9 8* | 507,802 | 12 9 | — | |

* This deficiency of receipts was wholly offset by a surplus of estimated over actual gross expenditure.



Finance Act 1968

1968 CHAPTER 44

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. [26th July 1968]

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 Queen'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) For the following provisions of the Finance Act 1964, Spirits, wine, British wine and tobacco. as amended by section 1(2) of the Finance Act 1967, setting out rates of customs and excise duties, namely—

- (a) Table 1 in Schedule 1 (spirits other than imported perfumed spirits); 1964 c. 49.
 (b) Schedule 3 (wine); 1967 c. 54.
 (c) Schedule 4 (British wine),

there shall be substituted the provisions set out in Schedules 1, 2 and 3 respectively to this Act.

PART I
1965 c. 25.
1964 c. 49.

(2) In section 1(2) of the Finance Act 1965 (which increased each of the rates of customs and excise duty and of drawback in respect of tobacco set out in Schedule 5 to the Finance Act 1964 by 10s. per pound) for the reference to 10s. there shall be substituted a reference to 14s. 4d. ; but this subsection shall not affect the rates of drawback payable in the case of goods in respect of which duty has been paid otherwise than at the rates having effect by virtue of this section.

1952 c. 44.

(3) Section 109(1) of the Customs and Excise Act 1952 (which provides that no spirits shall be delivered for home use unless they have been warehoused for a period of at least three years) shall not apply to imported compounded spirits of any kind specified for the purposes of this subsection in regulations made by the Commissioners ; and section 5 of the Finance Act 1966 (which contains an exemption from the said section 109(1) confined to imported vodka) shall cease to have effect on the expiration of the period of one month beginning with the day on which this Act is passed.

1966 c. 18.

(4) Subsections (1) and (2) of this section shall have effect as from 20th March 1968.

Hydrocarbon
oils.

2.—(1) As from six o'clock in the evening of 19th March 1968—

1964 c. 92.
1967 c. 54.

(a) section 2 of the Finance (No. 2) Act 1964 (which, as amended by section 1(3) of the Finance Act 1967, provides for a duty of customs at the rate of three shillings and sevenpence a gallon to be charged on imported hydrocarbon oils and for a duty of excise at the same rate to be charged on hydrocarbon oils produced in the United Kingdom, on petrol substitutes and on spirits used for power methylated spirits) shall have effect with the substitution for the words "three shillings and sevenpence" of the words "three shillings and elevenpence" ;

1966 c. 46.

(b) subsection (2) of section 92 of the Finance Act 1965 (which, as amended as aforesaid, provides that the amount of a grant under subsection (1) of that section by the Minister of Transport to the operator of a bus service towards defraying customs or excise duties charged on bus fuel shall not exceed tenpence for every gallon of fuel used or estimated to have been used in operating the bus service during the period to which the grant relates) and section 1(1)(b) of the Bus Fuel Grants Act 1966 (which, as amended as aforesaid, amends the said subsection (2)) shall have effect as if for any reference therein to tenpence there were substituted a reference to one shilling and twopence ; and

so much of subsection (9) of the said section 92 as enables the Parliament of Northern Ireland to make laws for purposes similar to the purposes of the provisions of that section shall apply to those provisions as amended by this paragraph.

PART I

(2) Where in the case of any hydrocarbon oils which have been delivered for home use it is shown to the satisfaction of the Commissioners—

- (a) that since they were so delivered the oils have been deposited unused in an oil warehouse ; and
- (b) that they have been so deposited by reason of having become contaminated or by reason of their consisting of different descriptions of hydrocarbon oils which have accidentally become mixed ; and
- (c) that at the time when they were so deposited they were, or, as the case may be, were a mixture of, oils on which the appropriate duty of customs or excise had been paid and not repaid and on which drawback had not been allowed,

then, subject to any conditions which the Commissioners see fit to impose for the protection of the revenue, the Commissioners may make to the occupier of that warehouse a payment in accordance with the provisions of subsection (3) of this section.

(3) The payment aforesaid shall be a payment of an amount appearing to the Commissioners to be equal to the duty which would have been payable if—

- (a) the oils had not become contaminated or mixed ; and
- (b) they had first been delivered for home use at the time when they were deposited in the warehouse and the duty had first become chargeable on them on that delivery.

(4) In this section the expression “ oil warehouse ” means a place of security approved by the Commissioners under section 80 of the Customs and Excise Act 1952 for the deposit, keeping and securing of hydrocarbon oils, and includes a refinery. 1952 c. 44.

3.—(1) As from 1st July 1968, in the case of goods of the Republic of Ireland consigned to the United Kingdom from that country—

- (a) the rates at which the duties of customs are charged on matches by section 4 of the Finance Act 1951 and on mechanical lighters by section 6 of the Finance Act 1928 shall be the same as the corresponding rates of excise duty under those sections ;
- Reduction in customs duty on goods from Republic of Ireland and abolition of customs duty on hops etc.
1951 c. 43.
1928 c. 17.

PART I
1964 c. 49.

(b) Schedule 3 to the Finance Act 1964 (rates of customs duty on wine) shall—

(i) in its application to wine exceeding 32 degrees of proof spirit, have effect as if the rate specified in the third column in respect of still wine in bottle were the same as the rate so specified in respect of still wine not in bottle ;

(ii) in its application to wine not exceeding 32 degrees of proof spirit, have effect as if the provisions of that Schedule were the same as those of Schedule 4 to that Act (rates of excise duties on British wine) with the substitution in the latter of “Customs Duties” for “Excise Duties” and the omission of “British” wherever it occurs ;

(c) Table 1 in Schedule 5 to the said Act of 1964 (rates of customs duties on tobacco) shall have effect as if any rate specified in the third column (Commonwealth rates) which exceeds the corresponding rate specified in the fourth column (Convention rates) were the same as that corresponding rate.

1957 c. 49.

(2) Section 3 of the Finance Act 1957 (which charges a duty of customs on hops, hop oil and any extract, essence or other similar preparation made from hops) shall cease to have effect as from the said 1st July, but without prejudice to any right of drawback in respect of duty paid under that section before that date.

Duties relating
to betting or
gaming.
1966 c. 18.

4.—(1) For the purposes of the general betting duty on bets made on or after 25th March 1968, section 12(2)(b) of the Finance Act 1966 (under which the amount of the duty is an amount equal to two and a half per cent. of the amount staked) shall have effect with the substitution for the words “two and a half per cent.” of the words “five per cent.”

1963 c. 3.

(2) For the purposes of the pool betting duty on bets made at any time by reference to any event taking place on or after 25th March 1968, section 1(2) of the Betting Duties Act 1963 (which, as amended, provides that the duty shall be an amount equal to twenty-five per cent. of the amount of the stake money paid) shall have effect with the substitution for the words “equal” onwards of the words “equal to thirty-three and a third per cent. of the amount of the stake money paid.”

(3) The amount of the duty under section 13 of the Finance Act 1966 on a gaming licence in respect of any premises granted so as to expire on a date later than 30th September 1968 shall be determined with the substitution for the Table set out in subsection (2) of that section of the Table set out in Schedule 4 to this Act.

(4) The provisions of Schedule 5 to this Act shall have effect for the purposes of the enforcement of the duties relating to betting or gaming.

PART I

5. Subject to any new order of the Treasury under section 2 of the Purchase Tax Act 1963, Part I of Schedule 1 to that Act (chargeable and exempt goods and rates of tax) as amended by section 1(4) of the Finance Act 1967 shall have effect—

Purchase tax.
1963 c. 9.
1967 c. 54.

- (a) as from 20th March 1968 with the amendments specified in Schedule 6 to this Act ; and
- (b) as from 30th April 1968 with the amendment of Group 26 by the omission from paragraph (a) and the insertion at the beginning of paragraph (b) of the words " Diaries, calendars and similar articles ; and " ; and
- (c) as from 1st July 1968 with the amendment of Group 24 by the addition after paragraph (4) of the exemptions of the following paragraph :—

" (5) The following projectors namely—

- (i) cinematograph projectors suitable only for film of 16 mm. width ;
- (ii) projectors suitable only for filmstrip ;
- (iii) cassette loaded loop projectors,

and parts and accessories suitable only for use with a projector of any of those descriptions."

6.—(1) Any person entering the United Kingdom shall, at such place and in such manner as the Commissioners may direct, declare any thing contained in his baggage or carried with him which—

Customs control of persons entering or leaving the United Kingdom.

(a) he has obtained outside the United Kingdom ; or

(b) being dutiable goods or chargeable goods within the meaning of the Purchase Tax Act 1963, he has obtained in the United Kingdom without payment of duty or purchase tax,

and in respect of which he is not entitled to exemption from payment of duty and purchase tax by virtue of any order under section 7 of this Act.

(2) Any person entering or leaving the United Kingdom shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Commissioners may direct.

PART I

(3) Any person failing to declare any thing or to produce any baggage or thing as required by this section shall be liable to a penalty of three times the value of the thing not declared or of the baggage or thing not produced, as the case may be, or £100, whichever is the greater; and any thing chargeable with any duty or tax which is found concealed or is not declared, and any thing which is being taken into or out of the United Kingdom contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, shall be liable to forfeiture.

1952 c. 44.

(4) Section 66 of the Customs and Excise Act 1952 (which is superseded by this section) shall cease to have effect; and section 67 of that Act (power to require evidence in support of information) shall have effect as if this section were contained in Part II of that Act.

Power to provide, in relation to persons entering the United Kingdom, for reliefs from customs duty and purchase tax and for a simplified computation of duty and tax.

7.—(1) The Commissioners may by order make provision for conferring on persons entering the United Kingdom reliefs from customs duty and purchase tax; and any such relief may take the form either of an exemption from payment of duty and tax or of a provision whereby the sum payable by way of duty or tax is less than it otherwise would be.

(2) Without prejudice to subsection (1) of this section, the Commissioners may by order make provision whereby, in such cases and to such extent as may be specified in the order, a sum calculated at a rate specified in the order is treated as the aggregate amount payable by way of customs duty and purchase tax in respect of goods imported by a person entering the United Kingdom; but any order making such provision as aforesaid shall enable the person concerned to elect that customs duty and purchase tax shall be charged on the goods in question at the rates which would be applicable apart from that provision.

(3) An order under this section—

- (a) may make any relief for which it provides subject to conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies;
- (b) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient, including provisions for the forfeiture of goods in the event of non-compliance with any condition subject to which they have been relieved from duty or tax;
- (c) may make different provision for different cases.

(4) The power to make orders under this section shall be exercisable by statutory instrument and shall include power to vary or revoke a previous order thereunder.

(5) Any order under this section which removes, reduces or restricts any relief conferred by any previous order under this section shall cease to have effect at the end of the period of twenty-eight days beginning with the day on which the order is made (but without prejudice to anything previously done under the order or to the making of a new order) unless before the end of that period the order is approved by a resolution of the House of Commons; and any other order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

In reckoning the said period of twenty-eight days no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

(6) In this section "purchase tax" means purchase tax chargeable by virtue of section 11 of the Purchase Tax Act 1963 c. 9. 1963 (tax on imported goods) and references to customs duty and to purchase tax include references to any addition thereto by virtue of section 9 of the Finance Act 1961 (surcharges on 1961 c. 36. revenue duties).

(7) Nothing in any order under this section shall be construed as authorising any person to import any thing in contravention of any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment.

8.—(1) For the rates of duty set out in Part II of Schedule 1, of Schedule 3, of Schedule 4 and of Schedule 5 to the Vehicles (Excise) Act 1962 as amended by section 5(1) of the Finance Act 1965 (annual rates of duty for licences other than trade licences) there shall be substituted respectively the rates of duty set out in Parts I, II, III and IV of Schedule 7 to this Act. Vehicles excise duty: increase of rates. 1962 c. 13. 1965 c. 25.

(2) In section 12(5) of the said Act of 1962 as amended by section 5(2) of the said Act of 1965 (trade licences)—

(a) in paragraph (a) (general trade licences) for the words "forty-five pounds" and "nine pounds" there shall be substituted respectively the words "sixty pounds" and "twelve pounds";

(b) in paragraph (b) (limited trade licences) for the words "nine pounds" and "two pounds" there shall be substituted respectively the words "twelve pounds" and "two pounds ten shillings".

(3) In relation to any hackney carriage or goods vehicle which is partly used for private purposes, the duty chargeable by virtue of Schedule 2 or Schedule 4 to the said Act of 1962, as

PART I

the case may be, shall (if apart from this subsection it would be less) be equal to the duty which would be chargeable in respect of that hackney carriage or goods vehicle if Schedule 5 to that Act, and not the said Schedule 2 or 4, were applicable thereto.

(4) For the purposes of the said Schedule 4, but without prejudice to the last foregoing subsection, a vehicle shall be treated as a farmer's goods vehicle notwithstanding that it is partly used for private purposes if, apart from that use, it would be a farmer's goods vehicle within the meaning of that Schedule.

(5) In subsections (3) and (4) of this section "used for private purposes" means—

- (a) as respects a hackney carriage, used otherwise than for the purpose of carrying passengers for hire or reward or of being let for hire ;
- (b) as respects a goods vehicle, used otherwise than for the conveyance of goods or burden for hire or reward or for or in connection with a trade or business (including the performance by a local or public authority of its functions).

(6) This section applies to licences taken out after 19th March 1968.

Vehicles
excise duty:
trade licences
for vehicle
testing.
1962 c. 13.

9. For the purpose of enabling certain persons engaged in the testing of vehicles to take out trade licences under section 12 of the Vehicles (Excise) Act 1962, that section (which at present applies only to motor traders) shall be amended as follows:—

- (a) in subsections (1) and (2) after the words "motor trader" there shall be inserted the words "or vehicle tester" ;
- (b) at the end of subsection (10) there shall be added the words " ; and ' vehicle tester ' means a person, other than a motor trader, who regularly in the course of his business engages in the testing on roads of mechanically propelled vehicles belonging to other persons."

Continuation
of powers
under s. 9 of
Finance Act
1961.
1961 c. 36.
1967 c. 54.

10.—(1) The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by section 1(1)(b) of the Finance Act 1967, was extended until the end of August 1968) shall extend until the end of August 1969 or such later date as Parliament may hereafter determine.

1966 c. 18.

(2) In consequence of the abolition by section 12(6) of the Finance Act 1966 of bookmakers' licence duty, the said section

9 shall have effect as if for subsection (3)(b) thereof there were substituted the following:— PART I

“ (b) every duty of excise other than a duty payable on a licence ; and ”.

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

11. Income tax for the year 1968-69 shall be charged at the standard rate of 8s. 3d. in the pound, and in the case of an individual whose total income exceeds £2,000 at such higher rates in respect of the excess as Parliament may hereafter determine. Charge of income tax for 1968-69.

12. Income tax for the year 1967-68 shall be charged, in the case of an individual whose total income exceeded £2,000, at the same higher rates in respect of the excess as were charged for the year 1966-67. Surtax rates for 1967-68.

13. Corporation tax shall be charged for the financial year 1967 at the rate of 42½ per cent. Charge of corporation tax for financial year 1967.

14.—(1) For the year 1968-69 and subsequent years of assessment, section 13 of the Finance Act 1957 (relief for persons over 65 with small incomes), as amended by section 16(1) of the Finance Act 1967, shall be amended by substituting— Alterations in personal reliefs. 1957 c. 49. 1967 c. 54.

(a) for the references to £401 and £643 (the income limits for exemption from tax), references to £415 and £665, and

(b) for the reference to £180 (the excess over those limits beyond which relief by reduction of tax is excluded), a reference to £230.

(2) Section 210(1) of the Income Tax Act 1952 (married and single relief) shall for the year 1968-69 and subsequent years of assessment have effect in relation to any claim made by a man who becomes married in the year for which the claim is made, and has not previously in that year been entitled to the higher relief specified in paragraph (a) thereof (married relief), as if the sum specified for that year in that paragraph were reduced, for each month of that year ending before the date of the marriage, by one-twelfth of the amount by which it exceeds the sum specified in paragraph (b) (single relief). 1952 c. 10.

In this subsection “ month ” means a month beginning with the 6th day of a month of the calendar year.

PART II

1952 c. 10.
1960 c. 44.

(3) A man who becomes married during a year of assessment may by notice in writing to the inspector elect that his marriage be disregarded for the purposes of any claim for that year under section 214 or 215 of the Income Tax Act 1952 or section 17 of the Finance Act 1960 (housekeeper etc. relief), and, in that case, the marriage shall also be disregarded for the purposes of any claim for that year under section 210 of the said Act of 1952 (married and single relief).

1965 c. 53.
1966 c. 8
(N.I.).

(4) Where for the year 1968-69 an individual is assessable to income tax in respect of payments on account of an allowance or allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966, the total deductions from tax to which, apart from this section, the individual (or, if the individual is a wife assessable in respect of the payments by virtue of an application for separate assessment under section 355 of the Income Tax Act 1952, she and her husband together) would be entitled for the year under sections 210 and 212 to 219 of the said Act of 1952 (certain personal reliefs) shall be reduced, for each allowance if more than one, by an amount equal to tax at the standard rate on £36 or, if the payments in question are payments for a part only of the year, by the following amount or amounts—

(a) so far as the payments consist of or include payments for, or for a period falling within, the first half of the year, by an amount, or a proportionate part of an amount, equal to tax at the standard rate on £15, and

(b) so far as the payments consist of or include payments for, or for a period falling within, the second half of the year, by an amount, or a proportionate part of an amount, equal to tax at the standard rate on £21.

(5) The allowances referred to in subsection (4) above shall be treated as including any allowance payable to an individual in the service of the Crown in lieu of an allowance under either of the enactments there specified.

(6) The said subsection (4) shall not apply in the case of any payments if the individual assessable in respect thereof is entitled in the year—

1965 c. 51.
1966 c. 6
(N.I.).

(a) to a widow's allowance, widowed mother's allowance, retirement pension or child's special allowance under the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966, or

1965 c. 52.
1966 c. 9
(N.I.).

(b) to an allowance under section 21 of the National Insurance (Industrial Injuries) Act 1965 or section 21 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (allowances in respect of children of deceased), or

(c) to an allowance granted by the Minister of Social Security under a Royal Warrant, Order in Council or order administered by him to widows of members of the armed forces.

PART II

(7) The said subsection (4) shall not affect the construction of any reference in the Income Tax Acts to the deduction allowable under any particular provision of those referred to in that subsection.

(8) The preceding provisions of this section shall not be deemed to have required any change to be made in the amounts deducted or repaid under section 157 of the Income Tax Act 1952 c. 10. 1952 (pay as you earn) before 27th April 1968.

15.—(1) Subject to the following provisions of this section, an infant's income, so far as it is income for a year of assessment or part of a year of assessment during which he or she is unmarried and not regularly working, shall in the circumstances specified in Schedule 8 to this Act be treated in accordance with that Schedule as income of his or her parent or parents, and the supplemental provisions contained in that Schedule shall also have effect. Aggregation with income of parents of investment, etc. income of unmarried infants not regularly working.

(2) Subsection (1) above does not apply to—

(a) earned income, or

(b) income derived from any sum, or from assets representing any sum, paid by way of, or in satisfaction of a claim for, damages in respect of personal injury to the infant (including any disease, and any impairment of his or her physical or mental condition),

but, subject to those exclusions and to subsection (3) below, the said subsection applies to all such amounts as would fall to be included in computing the infant's total income apart therefrom, and so applies notwithstanding anything in any other enactment (including, except so far as the contrary is expressly provided, any enactment passed after this Act) requiring any amount not to be treated as income of anyone other than the infant.

(3) Section 397(3) of the Income Tax Act 1952 (settlements on children: income not exceeding £5 not to be treated as income of settlor by virtue of section 397(1) of that Act) shall cease to have effect, but neither the said section 397(1) nor subsection (1) above shall have effect in relation to an infant for any year of assessment for which his aggregate income, so far as it would fall within one or other of those provisions but for this exception, does not exceed £5.

PART II

(4) An infant is to be treated for the purposes of this section as working regularly if, and only if, he or she is engaged in a full-time occupation, not being one entered into during an interval not exceeding fifteen months between two periods of full-time education, and intends to be regularly engaged in it or another such occupation.

In this subsection "occupation" means any office, employment, trade, profession or vocation.

1952 c. 10.

(5) Income falling by virtue of this section and the said Schedule 8 to be treated as income of an infant's parent shall not be taken into account for the purposes of section 212(4) of the Income Tax Act 1952 (reduction in child relief where child entitled in own right to income exceeding £115 per year).

1965 c. 25.

(6) Section 21 of the Finance Act 1965 (calculation of capital gains tax by reference to liability to income tax) shall have effect as if this section, except so far as it affects the operation of section 397(1) of the Income Tax Act 1952, had not been enacted.

(7) Any tax falling to be assessed in respect of income which is to be treated by virtue of this section and the said Schedule 8 as income of an infant's parent shall, instead of being assessed on the infant, or on the infant's trustee, guardian, curator or committee, or on the infant's executors or administrators, be assessable on the parent, or, in the appropriate cases, on the parent's trustee, guardian, curator or committee, or on the parent's executors or administrators.

(8) This section shall have effect for the year 1969-70 and subsequent years of assessment.

Life policies,
life annuity
contracts, and
capital
redemption
policies.

16.—(1) Subject to the provisions of this section—

- (a) relief from tax under section 219 of the Income Tax Act 1952 shall be granted in respect of the premiums payable under a policy of life insurance only if the policy is a qualifying policy within the meaning of Part I of Schedule 9 to this Act ;
- (b) Part II of that Schedule shall have effect for the purpose of imposing, in the manner and to the extent therein provided, charges to surtax and to tax under section 77 of the Finance Act 1965 (shortfall in distributions of close company) in respect of gains to be treated in accordance with that Part as arising in connection with policies of life insurance, contracts for life annuities, and capital redemption policies ; and

(c) section 241 of the said Act of 1952 (no surtax deduction for interest etc. on loans used to pay premiums) shall be amended as follows—

(i) subsection (3)(d) of that section (exemption where annual premiums do not exceed one-eighth of capital sum payable on death) shall not apply to any interest or other sum unless it is shown to the satisfaction of the Board that it is exceptional for the individual in question to apply borrowed money to or towards the payment of premiums to which that provision applies, and that no such money has been so applied by him in any of the three years of assessment immediately preceding that in which he so applies the money on or in respect of which the interest or other sum in question is payable, and

(ii) subsection (3)(e) of that section (exemption for interest etc. not exceeding £100 in the case of other premiums each of which is one of a series of equal premiums payable at equal intervals of not more than one year) shall have effect without the exclusion of premiums falling within the said subsection (3)(d), and, in the case of premiums payable under a qualifying policy within the meaning of Part I of the said Schedule 9, with the omission of the words from “each of which” to “one year”.

(2) The supplementary provisions contained in Part III of the said Schedule 9 shall also have effect.

(3) Nothing in this section or the said Schedule 9 shall apply—

(a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals, or

(b) to any policy of life insurance issued in connection with a sponsored superannuation scheme as defined in section 22(10) of the Finance Act 1956, if one-half at least of the cost of the scheme is borne by the person or persons under whom the relevant offices or employments are held. 1956 c. 54.

In the application of this subsection to Scotland, for the reference to a mortgage there shall be substituted a reference to a

PART II
1924 c. 27.

heritable security within the meaning of the Conveyancing (Scotland) Act 1924 (but including a security constituted by *ex facie* absolute disposition or assignation).

1956 c. 54.

(4) In this section and the said Schedule 9 “life annuity” means any annuity to which section 27 of the Finance Act 1956 applies, and “capital redemption policy” means any insurance effected in the course of a capital redemption business as defined in section 431(3) of the Income Tax Act 1952.

1952 c. 10.

(5) Paragraphs (a) and (c) of subsection (1) above shall have effect for the year 1967-68 and subsequent years of assessment, but, in the case of paragraph (a), only as respects policies of life insurance issued in respect of insurances made after 19th March 1968, and, in the case of paragraph (c), only as respects interest on, and other sums payable in respect of, money borrowed after that date; and paragraph (b) of that subsection shall have effect for the year 1968-69 and subsequent years of assessment, but only as respects policies of life insurance issued as aforesaid, contracts for life annuities entered into after the said 19th March, and capital redemption policies effected after that date.

(6) A policy of life insurance issued in respect of an insurance made on or before 19th March 1968 shall be treated for the purposes of subsection (5) above and the said Schedule 9 as issued in respect of one made after that date if it is varied after that date so as to increase the benefits secured or to extend the term of the insurance:

Provided that a variation effected before the end of the year 1968 shall be disregarded for the purposes of this subsection if its only effect is to bring into conformity with paragraph 2 of that Schedule (qualifying conditions for endowment policies) a policy previously conforming therewith except as respects the amount guaranteed on death, and no increase is made in the premiums payable under the policy.

Small
maintenance
payments.
1952 c. 10.

17.—(1) In section 205(1)(i) of the Income Tax Act 1952 (definition of small maintenance payments) for the words from ‘to be made weekly’ to ‘subsection (3) of this section’ there shall be substituted the words ‘to be made—

(A) weekly at a rate not exceeding £7 10s. 0d. per week, or

(B) monthly at a rate not exceeding £32 10s. 0d. per month’.

(2) Subsection (1) above shall not affect payments falling due before 6th April 1969 under an order made before the coming into force of this section:

Provided that where an order so made is varied or revived at any time after the coming into force of this section, subsection (1) above shall apply in relation to payments falling due under the order after that time.

(3) Where a court makes an order in consequence of which payments falling due under a previous order which is not already a small maintenance order within the meaning of the said section 205 will be treated as small maintenance payments within the meaning of that section by virtue of the proviso to subsection (2) above, the court shall furnish to the Board, in such form as the Board may prescribe, particulars of those orders, the names of the persons for the time being liable to make, and entitled to, those payments and, so far as known to the court, the addresses of those persons.

(4) The Treasury may from time to time by order increase the amount of £7 10s. 0d. and the amount of £32 10s. 0d. in the said section 205(1)(i) either as respects payments within paragraph (a) of the said subsection (1) (payments to a person who is or has been a party to a marriage), or as respects payments within paragraph (b) of that subsection (payments for children), or as respects both.

(5) An order which increases, or further increases, the said amount of £7 10s. 0d. for a class of payments shall increase, or further increase, the amount of £32 10s. 0d. for that class of payments so that it is 52 twelfths of the weekly amount or, if that does not give a convenient round sum, such other amount as appears to the Treasury to be the nearest convenient round sum.

(6) An order under subsection (4) above may contain provisions corresponding to subsections (2) and (3) above so as to postpone the effect of the order under this section in relation to payments under court orders made before the coming into force, for other purposes, of the order under this section.

(7) An order under subsection (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(8) Section 205(3) of the Income Tax Act 1952 and section 1952 c. 10, 40(1)(c) of the Finance Act 1960 (which are superseded by this section) shall cease to have effect, so however that the repeal thereof shall not affect payments in relation to which subsection (1) of this section is excluded by subsection (2) of this section. 1960 c. 44.

(9) This section shall come into force on the passing of this Act.

18.—(1) Where any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or Case II of Schedule D has been permanently discontinued, and the profits or gains for any period before the discontinuance were computed on a conventional basis (that is to say, were computed Cash basis, etc.: post-cessation and other receipts.

PART II otherwise than by reference to earnings), tax shall be charged under Case VI of Schedule D in respect of sums to which this subsection applies which are received on or after the discontinuance.

This subsection applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the discontinuance (not being sums otherwise chargeable to tax) in so far as their amount or value was not brought into account in computing the profits or gains for any period before the discontinuance.

(2) Where, in the case of any trade, profession or vocation the profits or gains of which are chargeable to tax under Case I or Case II of Schedule D there has been—

(a) a change from a conventional basis to the earnings basis, or

(b) a change of conventional basis which may result in receipts dropping out of computation,

tax shall be charged under Case VI of Schedule D in respect of sums to which this subsection applies which are received after the change, and before the trade, profession or vocation is permanently discontinued.

This subsection applies to all sums arising from the carrying on of the trade, profession or vocation during any period before the change (not being sums otherwise chargeable to tax) in so far as their amount or value was not brought into account in computing the profits or gains for any period.

(3) Schedule 10 to this Act shall have effect for supplementing and giving effect to this and the next following section, and in that Schedule “the principal section” means this section.

1960 c. 44

(4) Subsection (1) above shall not apply to sums to which section 32 of the Finance Act 1960 (post-cessation receipts) applies despite the words “(not being sums otherwise chargeable to tax)” in subsection (2) of the said section 32, and shall not apply to sums to which the said section 32 would have applied but for paragraphs (a) and (b) of subsection (3) of that section (non-residents and copyright).

(5) For the purposes of this and the next following section and the said Schedule—

(a) “by reference to earnings” shall be construed in accordance with section 32(5) of the Finance Act 1960, and “earnings basis” shall be construed accordingly,

(b) “conventional basis” has the meaning given by subsection (1) above, so that profits or gains are computed on a conventional basis if computed otherwise than by reference to earnings,

- (c) there is a change from a conventional basis to the earnings basis at the end of a period the profits or gains of which were computed on a conventional basis if the profits or gains of the next succeeding period are computed by reference to earnings,
- (d) if the profits or gains of two successive periods are computed on different conventional bases, a change of conventional basis occurs at the end of the earlier period.

(6) For the said purposes any reference to the permanent discontinuance of a trade, profession or vocation includes a reference to the occurring of any event which, under any of the provisions in the Income Tax Acts or the Corporation Tax Acts, is to be treated as equivalent to the permanent discontinuance of a trade, profession or vocation; and the trade, profession or vocation carried on before a permanent discontinuance shall not be treated for those purposes as the same as any carried on after the discontinuance.

(7) Subsection (1) above shall not apply where the permanent discontinuance fell before 19th March 1968, but, subject to that, has effect as respects sums received at any time on or after that date, whether before or after the passing of this Act, and as respects income tax or corporation tax for years of assessment from the year 1967-68 onwards or any accounting period ending on or after 19th March 1968.

(8) Subsection (2) above shall not apply where the change took place before 19th March 1968 and before that date—

- (a) the decision had been taken to prepare accounts reflecting the change, or
- (b) the trade, profession or vocation had been permanently discontinued,

but, subject to that, has effect as respects sums received at any time before or after that date, and as respects income tax or corporation tax for any past or future year of assessment or accounting period.

19.—(1) If an individual born before 6th April 1917, or the personal representative of such an individual, is chargeable to tax under the last preceding section and—

- (a) the individual was engaged in carrying on the trade, profession or vocation on 18th March 1968, and
- (b) the profits or gains of the trade, profession or vocation were not computed by reference to earnings in the period in which the said 18th March fell, or in any subsequent period ending before or with the relevant date,

Cash basis,
etc.: relief for
individuals.

PART II the net amount with which he is so chargeable to tax shall be reduced by multiplying that net amount by the fraction given below.

(2) Where subsection (2) of the last preceding section applies in relation to a change of basis taking place on a date before 19th March 1968, then in relation to tax chargeable by reference to that change of basis, that earlier date shall be substituted for the date in paragraph (a) above, and paragraph (b) above shall be omitted.

(3) The said fraction is—

- (a) where on 5th April 1968 the individual had not attained the age of fifty-two, nineteen-twentieths,
- (b) where on that date he had attained the age of fifty-two, but had not attained the age of fifty-three, eighteen-twentieths, and so on reducing the fraction by one-twentieth for each year he had attained, up to the age of sixty-four,
- (c) where on that date he had attained the age of sixty-five or any greater age, five-twentieths.

(4) In this section—

“the net amount” with which a person is chargeable to tax under the last preceding section means the amount with which he is so chargeable after making any deduction authorised by Schedule 10 to this Act, but before giving any relief under this section,

“relevant date”—

(a) in relation to tax under subsection (1) of the last preceding section, means the date of the permanent discontinuance,

(b) in relation to tax under subsection (2) of that section, means the date of the change in basis.

Partnerships
of companies
and
individuals.
1965 c. 25.

20.—(1) Where one or more of the persons engaged throughout all or any part of a year of assessment in carrying on a trade to which section 73 of the Finance Act 1965 (company partnerships) applies is an individual, this section shall have effect as respects income tax which, in accordance with subsections (3) and (4) of that section, is chargeable for that year.

(2) Notwithstanding any difference between the partners' interests during the basis period and their interests during the year of assessment, the amount of the individual's income from the partnership for the year of assessment, or the total of the amounts of the individuals' incomes from the partnership for that year, shall be deemed to be not less than the profits of the basis period reduced, where any share was apportioned to a company under subsection (2) of the said section 73, by the amount of that company's share.

(3) Where there are two or more individuals, and, but for subsection (2) above, the total of the amounts of the individuals' incomes from the partnership for the year would fall short of the profits of the basis period reduced as aforesaid, that amount shall be apportioned—

(a) according to the individuals' interests during the year of assessment, disregarding any company's interest, and

(b) in so far as that does not determine or fully determine the apportionment, between the individuals in equal shares.

(4) In this section—

(a) "basis period", in relation to a year of assessment, means any accounting period or part of an accounting period which is, or forms part of, the period on the profits or gains of which income tax for the year of assessment in question falls to be computed under Schedule D in respect of the trade, and

(b) references to an individual's income from the partnership are references to that income before deduction of capital allowances or charges on income.

(5) It is hereby declared that in the said section 73 "profits" does not include chargeable gains.

(6) This section shall be construed as one with the said section 73.

21.—(1) Subject to subsections (3) and (6) below, where after 19th March 1968 a person—

(a) acquires know-how for use in a trade carried on by him, or

(b) acquires know-how, and thereafter sets up and commences a trade in which it is used,

writing-down allowances in respect of his expenditure on the acquisition, so far as not otherwise deducted for the purposes of corporation tax or income tax, shall be made in taxing the trade during a writing-down period of six years beginning with the chargeable period related to the expenditure; and if during that period he ceases to carry on the trade, an allowance equal to the amount of that expenditure then unallowed shall be made in taxing the trade for the chargeable period related to the discontinuance.

For the purposes of this subsection, a person incurring expenditure on know-how before the setting up and commencement of the trade in which it is used shall be treated as incurring it on that setting up and commencement.

PART II

(2) Subject to the said subsection (6), where after 19th March 1968 a person disposes of know-how which has been used in a trade carried on by him, and continues to carry on the trade after the disposal, the amount or value of any consideration received by him for the disposal shall, so far as it is not chargeable to tax as a revenue or income receipt, be treated for all purposes as a trading receipt.

(3) Where after the said 19th March a person disposes of a trade or part of a trade and, together therewith, of know-how used therein, any consideration received by him for the know-how shall be dealt with, in relation both to him and to the person acquiring the know-how, if that person provided the consideration, and for the purposes of corporation tax, income tax and the capital gains tax, as a payment for goodwill:

Provided that this subsection shall not apply—

- (a) to either of the persons concerned if they so elect by notice in writing given jointly to the inspector within two years of the disposal, or
- (b) to the person acquiring the know-how if the trade in question was, before the acquisition, carried on wholly outside the United Kingdom ;

and where know-how is disposed of with a trade or part of a trade, but this subsection is excluded in relation to the person acquiring it, subsection (1) above shall apply as if that person had acquired it for use in a trade previously carried on by him.

(4) Subject to subsection (6) below, any consideration received by a person for the disposal of know-how shall, if it is neither chargeable to tax under subsection (2) above, or otherwise as a revenue or income receipt, nor dealt with in relation to him as a payment for goodwill as mentioned in subsection (3) above, be treated as a profit or gain chargeable to tax under Case VI of Schedule D:

Provided that, where the person concerned has incurred expenditure wholly and exclusively in the acquisition or disposal of the know-how, the amount which would apart from this proviso be treated as a profit or gain so chargeable shall be reduced by the amount of that expenditure ; but a deduction shall not be twice made in respect of the same expenditure, whether under this proviso or otherwise.

(5) Where subsection (4) above has effect in the case of an individual who devised the know-how in question, whether alone or jointly with any other person, the amount in respect of which he is chargeable to tax by virtue of that subsection shall be treated for all purposes as earned income.

(6) The preceding provisions of this section, except subsection (3), shall not apply on any sale of know-how where the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them; and the said subsection (3) shall apply on any such sale with the omission of the proviso.

In this subsection, references to a body of persons include references to a partnership.

(7) In this section "know-how" means any industrial information and techniques likely to assist in the manufacture or processing of goods or materials, or in the working of a mine, oil-well or other source of mineral deposits (including the searching for, discovery, or testing of deposits or the winning of access thereto), or in the carrying out of any agricultural, forestry or fishing operations.

(8) Where, in connection with any disposal of know-how, a person gives an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict his or another's activities in any way, any consideration received in respect of the giving of the undertaking or its total or partial fulfilment shall be treated for the purposes of this section as consideration received for the disposal of the know-how.

(9) Part I of the Capital Allowances Act 1968 shall have effect, and this section shall be construed, as if this section were contained in that Part, with references in that Part to property and its purchase or sale including references to know-how and its acquisition or disposal, with subsection (2) of section 75 (effect of providing for writing-down allowances during a writing-down period of a specified length) applying thereto as it applies to the provisions specified in subsection (1) of that section, and with the omission of section 78 (special provisions as to controlled sales). 1968 c. 3.

22.—(1) Subject to subsection (2) below, in section 52(5) of the Finance Act 1965 (conditions in which payments of interest to non-residents are charges on income for corporation tax) paragraph (b) (under which the liability must have been incurred wholly or mainly for the purposes of activities of the trade carried on outside the United Kingdom) shall apply to interest which is payable in the currency of a territory outside the scheduled territories as if in that paragraph the words "carried on outside the United Kingdom" were omitted. Interest payable abroad. 1965 c. 25.

PART II

(2) Subsection (1) above shall not apply where—

- (a) the trade is carried on by a body of persons over whom the person entitled to the interest has control, or
- (b) the person entitled to the interest is a body of persons over whom the person carrying on the trade has control, or
- (c) the person carrying on the trade and the person entitled to the interest are both bodies of persons, and some other person has control over both of them.

In this subsection the references to a body of persons include references to a partnership, and “control” has the meaning assigned to it by section 87(1) of the Capital Allowances Act 1968.

1968 c. 3.

1952 c. 10.

(3) In section 138(1) of the Income Tax Act 1952 (income tax provisions comparable to the said section 52(5)(b)) for paragraph (b) (payment of interest to be secured on trading assets abroad) there shall be substituted the following paragraph—

“ (b) that either—

(i) the liability to pay the interest was incurred wholly or mainly for the purposes of activities of the trade carried on outside the United Kingdom, or

(ii) the interest is payable in the currency of a territory outside the scheduled territories, and ”.

1947 c. 14.

(4) In this section (including the amendments made by this section) “ the scheduled territories ” means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.

(5) This section shall apply for income tax purposes for the year 1968-69 and subsequent years of assessment, and for corporation tax purposes to accounting periods ending on or after 6th April 1968.

Stock dividend options.

23.—(1) Any share capital, other than redeemable share capital, issued by a company (whether before or after the passing of this Act) in consequence of the exercise by any person of an option conferred on him on or after 19th March 1968 to receive in respect of shares in the company either a dividend in cash or additional share capital shall be treated for the purposes of the Corporation Tax Acts as a distribution by the company, and the income tax chargeable in respect of it by virtue of section 47 of the Finance Act 1965 shall be tax on the sum on which tax would have been chargeable by virtue of that section if the person in question had accepted the cash dividend instead.

1965 c. 25.

(2) For the purposes of paragraphs 1(3) and 2(1) of Schedule 11 to the Finance Act 1965 (matters to be treated as distributions), share capital issued as mentioned in subsection (1) above shall not be treated as issued as paid up otherwise than by the receipt of new consideration. PART II
1965 c. 25.

(3) In applying—

(a) paragraph 4(3) of Schedule 7 to the Finance Act 1965 (chargeable gains: reorganisation of share capital), and

(b) paragraph 10(3) of Schedule 9 to the Finance Act 1962 (corresponding provision for tax on short-term gains), 1962 c. 44.

in relation to the issue of the share capital to which subsection (1) above applies, as involving a reorganisation of the company's share capital, there shall be allowed, as consideration given for the new holding which includes that share capital, the sum referred to in subsection (1) above less income tax at the standard rate; and this subsection shall have effect notwithstanding the proviso to the said paragraph 4(3) and the proviso to the said paragraph 10(3).

(4) For the purposes of subsection (1) above, an option to receive either a dividend in cash or additional share capital is conferred on a person not only where he is required to choose one or the other, but also where he is offered the one subject to a right, however expressed, to choose the other instead, and a person's abandonment of, or failure to exercise, such a right is to be treated for those purposes as an exercise of the option.

(5) Part I of Schedule 11 to the said Act of 1965 shall have effect as if this section were contained in that Part.

24.—(1) Paragraph 9(1)(a) of Schedule 18 to the Finance Act 1965 (under which, in determining for any accounting period whether there has been a shortfall in the distributions of a close company, dividends may be treated as distributions for that period only if they are paid for the period and during or within twelve months after it) shall be amended so as to read— Shortfall in distributions of close-company: amendment as respects time limit for dividends.

“(a) any dividends which are declared in respect of the period, and are paid during the period or within eighteen months after it; and”.

(2) The preceding subsection shall not have effect as respects any accounting period ending before 20th March 1967.

25.—(1) This section has effect as respects the calculation of the three year surplus under section 85 of the Finance Act 1965. Dividends paid out of pre-1966-67 profits.

PART II

(2) If the company's dividends paid in the years 1966-67, 1967-68 and 1968-69 are related to periods of accounts exceeding three years in total, the amount at which those dividends are brought into the calculation shall not exceed the amount of the company's dividends which are related to the first three years of that total period, and which were paid in the years 1966-67, 1967-68 and 1968-69, or earlier:

Provided that if any of the dividends paid in 1966-67, 1967-68 and 1968-69 are related to any period of account ending before 6th April 1965, this subsection shall apply with the substitution, for the first three years of that total period, of a period of three years beginning with the period of account in which that date falls.

(3) This section shall not apply to a company if before 21st June 1968 a resolution was passed or an order was made for the winding-up of the company, or any other act was done for a like purpose in the case of a winding-up otherwise than under the Companies Act 1948, and, subject to that, subsection (2) above shall apply where, under subsection (7) of the said section 85, the three year surplus is to be computed by reference to the period ending with the last accounting period of a company which is wound up, as if for references to three years there were substituted references to a period equal in length to the period beginning with the financial year 1966 and ending with its last accounting period.

1948 c. 38.

(4) Any adjustment under the preceding provisions of this section in the amount at which the dividends are brought into the calculation shall be made before taking account, under subsection (6)(a) of the said section 85, of any amount treated under section 83 of the Act as a dividend paid in the year 1966-67, and before applying Part I of Schedule 7 to the Finance Act 1966 (groups of companies) so, however, that—

1966 c. 18.

- (a) this section shall not affect the proportion applicable under paragraph 1 of the said Schedule 7 in reducing a three year surplus as so adjusted,
- (b) in paragraph 2 (increase of three year surplus of principal company where three year surplus of a subsidiary is reduced) sub-paragraph (2) (which refers to the reductions under paragraph 1) shall have effect as if the preceding provisions of this section had not been enacted,
- (c) in applying sub-paragraph (3) of the said paragraph 2 (which attributes to the principal company its share of the excess of dividends over distributable profits of subsidiaries) the principal company's dividends shall be brought in at the adjusted amount, but a subsidiary's dividends shall be brought in at the unadjusted amount.

(5) For the purposes of this section—

PART II

- (a) "dividend" does not include a capital dividend,
- (b) a dividend is related to the period of account for which it is expressed to be payable and, if not expressed to be payable for any period of account, is related to the period of account in which it is paid,
- (c) where under this section it is necessary to ascertain the dividends related to a period of three years which includes part only of a period of account, the two parts of that period of account shall be treated as separate periods of account, and the amount of the dividends related to the entire period of account shall be apportioned to the respective parts on a time basis according to the respective lengths of the parts,

and in the provisions about paragraph 2 of Schedule 7 to the Finance Act 1966 "the principal company" means the company whose three year surplus is being computed and "subsidiary" means any other member of the group mentioned in that paragraph. 1966 c. 18.

26.—(1) In applying paragraph 2(3)(a) of Schedule 7 to the Finance Act 1966 (which attributes to the principal company its share of the excess of dividends over distributable profits of subsidiaries) where any subsidiary is itself a company having a notional surplus which is a three year surplus which falls to be increased under the said paragraph 2, that subsidiary's excess of dividends over distributable profits shall be the amount produced by the said paragraph 2(3)(a) in calculating that increase, so that there is attributed to the principal company the appropriate share of the excess of dividends over distributable profits not only of the subsidiary, but also of some one or more other members of the group paying dividends to the subsidiary. Dividends paid out of pre-1966-67 profits: groups of companies.

This subsection applies even if the subsidiary's three year surplus as so increased is then reduced or extinguished under paragraph 1 of the said Schedule 7.

(2) In this section "the principal company" means the company whose three year surplus is being computed under the said paragraph 2 and "subsidiary" means any other member of the group mentioned in that paragraph.

27.—(1) In sub-paragraph (3) of paragraph 4 of Schedule 17 to the Finance Act 1965 the words "company and that other company" shall be substituted for the words "three companies" in both places where they occur. Dividend stripping: time of acquisition of holding.

(2) This section applies to a distribution made after 10th April 1968. 1965 c. 25.

PART II
Prevention of
double relief
in respect of
general
annuities paid
by non-resident
assurance
companies.
1956 c. 54.

28.—(1) A company which is not resident in the United Kingdom but carries on through a branch or agency there any general annuity business within the meaning of section 24 of the Finance Act 1956 shall not be entitled to treat any part of the annuities paid by it which are referable to that business (annuities, that is to say, which either are deductible in computing the profits of that business for corporation tax purposes or constitute for those purposes charges on income) as paid out of profits or gains brought into charge to income tax.

1965 c. 25.

In this subsection "branch or agency" has the meaning given by section 89(2)(b) of the Finance Act 1965.

(2) Subsection (1) above shall have effect as respects annuities deductible in computing profits or, as the case may be, constituting charges on income for corporation tax accounting periods ending before or with, as well as after, the passing of this Act.

Double
taxation relief:
credit for
foreign tax.
1952 c. 10.

29.—(1) Paragraphs 2 and 3 of Schedule 16 to the Finance Act 1965 (computation of income subject to foreign tax, and allowance of credit up to marginal rate of United Kingdom income tax) shall have effect in place of paragraphs 5, 6 and 8 of Schedule 16 to the Income Tax Act 1952, and shall be construed and have effect as if contained in that Schedule.

(2) Where credit for foreign tax falls to be allowed in respect of any income of a company, then in computing the amount of the income for the purposes of corporation tax paragraph 7 of Schedule 16 to the Income Tax Act 1952 shall not apply, but instead paragraph 2 of Schedule 16 to the Finance Act 1965 shall apply as it applies for the purposes of income tax.

(3) This section has effect as respects relief from income tax or capital gains tax for the year 1968-69 and subsequent years of assessment, and as respects relief from corporation tax for the financial year 1968 and subsequent financial years.

Double
taxation relief:
group
investment in
overseas
company.

30.—(1) This section applies to any provision in arrangements having effect by virtue of section 347 of the Income Tax Act 1952 which—

(a) applies to any company which controls, directly or indirectly, not less than a stated fraction of the voting power of a company resident in a specified territory outside the United Kingdom, and

(b) in allowing credit against United Kingdom tax on dividends paid to any such company by the company so resident, authorises account to be taken of tax payable by the company so resident in respect of the profits out of which the dividends were paid.

(2) Credit shall be allowed as if the provision treated the subsidiary of a company which owns, directly or indirectly, the stated fraction of the voting power of a company resident in the specified territory as if that subsidiary also owned that fraction of the voting power of the company so resident.

(3) Credit shall not be allowable both by virtue of this section and under Schedule 17 to the Income Tax Act 1952 in the case of the same income. 1952 c. 10.

(4) For the purposes of this section a company is a subsidiary of another if the other company controls, directly or indirectly, not less than fifty per cent. of the voting power of the first company, and this section shall be construed as if it formed part of Schedule 16 to the Income Tax Act 1952.

(5) This section has effect as respects dividends paid (in the sense of section 89(4) of the Finance Act 1965) on or after 1st April 1968. 1965 c. 25.

PART III

CAPITAL GAINS, ESTATE DUTY AND BETTERMENT LEVY

Capital gains

31.—(1) An individual shall not be chargeable to capital gains tax for a year of assessment if his taxable amount for that year does not exceed £50. Capital gains tax: exemption for small amounts.

(2) If an individual's taxable amount for a year of assessment exceeds £50, the amount of capital gains tax to which he is chargeable for that year shall not be greater than the excess.

(3) For the purposes of this section an individual's taxable amount for a year of assessment is the amount on which he is chargeable under section 20(4) of the Finance Act 1965 for that year (or on which he would be so chargeable but for section 21 of that Act, which affords an alternative charge by reference to income tax).

(4) In the case of an individual dying in the year of assessment, subsection (3) shall apply with the substitution for the reference to the individual of a reference to his personal representatives, and the taxable amount shall be that on which the personal representatives are chargeable in respect of gains accruing on or before the death.

(5) In applying the preceding provisions of this section, and in particular in ascertaining an individual's taxable amount, it shall be assumed that paragraph 3(1) of Schedule 10 to the Finance Act 1965 (married woman: assessment and charge on the husband) applies for all years of assessment but where, by virtue of

PART III sub-paragraph (2) of the said paragraph 3, any amount is chargeable and assessable on a married woman, any relief afforded by this section shall be apportioned between the husband and the wife according to the respective amounts on which they are chargeable to capital gains tax for the year of assessment.

(6) This section shall have effect for the year 1967-68 and subsequent years of assessment.

Quoted securities held on 6th April 1965.
1965 c. 25.

32.—(1) This section has effect subject to the rights of election conferred by Schedule 11 to this Act.

(2) Paragraph 2 of Schedule 7 to the Finance Act 1965 (pooling of shares) shall not apply to quoted securities held on 6th April 1965.

(3) This section has effect as respects any disposal of quoted securities after 19th March 1968.

(4) This section does not affect the computation of the gain accruing on a disposal on or before 19th March 1968, but if by virtue of the said paragraph 2 such a disposal was made out of quoted securities of which some were acquired before 6th April 1965, and some later, then in computing the gain accruing on any disposal after 19th March 1968 the question of what remained undisposed of on the earlier disposal shall be decided on the footing that this section had effect as respects that earlier disposal.

(5) The rules of identification in paragraph 22(6) of Schedule 6 to the Finance Act 1965 (first in, first out, for quoted securities acquired before 6th April 1965) shall apply for the purposes of this section as they apply for the purposes of sub-paragraph (4) of the said paragraph 22.

(6) In this section and in Schedule 11 to this Act—

“quoted securities” means assets to which paragraph 22 of Schedule 6 to the Finance Act 1965 applies,

“fixed interest security” means any security as defined by paragraph 5 of Schedule 7 to that Act,

“preference share” means any share the holder whereof has a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but has no other right to share in the profits of the company,

“year of assessment” for corporation tax, as well as for income tax, means a year beginning on 6th April.

(7) This section and the said Schedule to this Act shall be construed as one with Part II of Schedule 6 to the Finance Act 1965, and in the said Schedule to this Act “the principal section” means this section.

33.—(1) In section 17 of the Finance Act 1965 subsections (7) and (8) (exemption from tax on short-term gains) shall cease to have effect. PART III
Government securities issued at a discount.
1965 c. 25.

(2) In the case of a disposal by a company—

(a) section 27(3) of the said Act (which, for tax on companies' gains and long-term gains, corresponds to the said subsection (7)) shall not apply unless the disposal of the securities occurs more than twelve months after their acquisition, and

(b) paragraph 5(2) of Schedule 7 to that Act (corresponding to the said subsection (8)) shall not apply to a disposal of, or of part of, the new holding unless the disposal occurs more than twelve months after the acquisition of the converted securities.

(3) The rules of identification in paragraph 8 of Schedule 9 to the Finance Act 1962 shall apply for the purposes of subsection (2) above and, where that subsection applies in relation to any disposal, paragraph 2(4) of Schedule 7 to the Finance Act 1965 (pooling of securities: exclusion of those subject to tax under Case VII of Schedule D) shall apply as if that disposal had been chargeable to income tax under Case VII of Schedule D (tax on short-term gains). 1962 c. 44

(4) Where under Schedule 13 to the Finance Act 1965 (groups of companies) the persons disposing of and acquiring an asset are to be treated as if the consideration were of such amount that neither a gain nor a loss accrues on the disposal, the person acquiring the asset shall be treated for the purposes of subsections (2) and (3) above as acquiring it at the time when the other acquired it.

(5) This section applies where the acquisition and the disposal take place after 19th March 1968.

(6) In this section "company" has the same meaning as in Part IV of the Finance Act 1965.

34. Schedule 12 to this Act (which makes further provision for amending the enactments relating to chargeable gains) and Schedule 13 to this Act (tax on short-term capital gains) shall have effect. Other amendments of enactments relating to capital gains.

Estate duty

35.—(1) In the case of a death after 19th March 1968 "seven years" shall be substituted for "five years" in the enactments listed in paragraph 1 of Schedule 14 to this Act, except as respects a period beginning on or before 19th March 1963. Gifts, etc.: period of charge.

PART III

(2) Where any property is deemed to pass on a death after 19th March 1968 by virtue of a relevant disposition or event (estate duty being chargeable on the property apart from this subsection), and the death takes place in the three last years of the seven-year period, the principal value of the property shall be reduced for estate duty purposes—

- (a) by 15 per cent. thereof, if the death takes place in the first of those three years,
- (b) by 30 per cent. thereof, if the death takes place in the second of those three years,
- (c) by 60 per cent. thereof, if the death takes place in the last of those three years.

In this subsection “the seven-year period” means the period of seven years beginning with the relevant disposition or event.

1960 c. 44.

(3) Subsection (2) above shall have effect in substitution for subsection (1) of section 64 of the Finance Act 1960, and as if contained in that section, and in subsection (3)(b) of that section “seven-year” and “seven” shall be substituted for “five-year” and “five”.

(4) Subsection (2) above shall not have effect so as to give a lesser percentage reduction in the principal value of any property than the percentage reduction (if any) which, assuming that the deceased had died on 19th March 1968, would have fallen to be made under subsection (1) or subsection (3)(b) of the said section 64 (without the amendments made by this section) as respects the property:

Provided that this subsection shall not apply unless in the period from 19th March 1968 to the death the deceased was entirely excluded from possession and enjoyment of the property, and of any benefit to him by contract or otherwise.

(5) The further transitional and consequential provisions of the said Schedule to this Act shall have effect in the case of a death after 19th March 1968, and in that Schedule “the principal section” means this section.

Marriage gifts. **36.**—(1) Where the deceased made a gift in consideration of marriage, and—

- (a) the gift was an outright gift to a child or remoter descendant of the deceased, or
- (b) the deceased was the parent or remoter ancestor of either party to the marriage, and either the gift was an outright gift to the other party to the marriage or the property comprised in the gift was settled by the gift, or

- (c) the deceased was a party to the marriage, and either the gift was an outright gift to the other party to the marriage or the property comprised in the gift was settled by the gift,

then—

- (i) if the principal value of the property comprised in the gift did not exceed £5,000, section 2(1)(c) of the Finance Act 1894 shall not apply to the gift, and
- (ii) if the principal value of the property comprised in the gift exceeded £5,000, the said section 2(1)(c) shall only apply to the excess.

(2) Where the deceased made a gift in consideration of marriage and subsection (1) above does not apply, then—

- (a) if the principal value of the property comprised in the gift did not exceed £1,000, the said section 2(1)(c) shall not apply to the gift,
- (b) if the principal value of the property comprised in the gift exceeded £1,000, the said section 2(1)(c) shall only apply to the excess.

(3) In the case of any one death—

- (a) the total amount of the relief conferred by subsection (1) above in respect of any one marriage shall not exceed £5,000, and
- (b) the total amount of the relief conferred by subsection (2) above in respect of any one marriage shall not exceed £1,000,

and the reductions required to give effect to paragraph (a) or paragraph (b) above shall be made rateably according to the respective principal values of the gifts in respect of which relief may be given.

(4) For the purposes of this section the principal value of any property shall be arrived at before making any reduction under section 64 of the Finance Act 1960 (graduation of charge).

(5) In this section “child” includes an illegitimate child, an adopted child and a step-child, and “parent”, “descendant” and “ancestor” shall be construed accordingly.

(6) In section 59(2) of the Finance (1909-10) Act 1910 the words “which are made in consideration of marriage or” shall cease to have effect, and references to the provision so repealed in section 53 of the Finance Act 1963 or elsewhere shall be taken as references to this section.

PART III

(7) This section has effect as respects a gift made after 19th March 1968, and in the case of a death after that date.

1894 c. 30.

(8) References in this and the next following section to section 2(1)(c) of the Finance Act 1894 are references to so much of that paragraph as makes gifts *inter vivos* property which is deemed to pass on the death.

Gifts forming part of normal expenditure of deceased.

37.—(1) Section 2(1)(c) of the Finance Act 1894 shall not apply to a gift if it is shown to the satisfaction of the Board or, on an appeal under section 10 of the Finance Act 1894, of the court entertaining the appeal that the gift was part of the normal expenditure of the deceased, that the deceased made the gift out of his income and that, after allowing for all gifts forming part of his normal expenditure, the deceased was left with sufficient income to maintain his usual standard of living.

(2) A payment of a premium on a policy of assurance on the life of the deceased, or a gift of money or money's worth applied, directly or indirectly, in payment of such a premium, shall not for the purposes of subsection (1) above be regarded as part of the normal expenditure of the deceased if, when the insurance was made, or at any earlier or later time, an annuity was purchased on the life of the deceased, unless it is shown to the satisfaction of the Board or, on an appeal under section 10 of the Finance Act 1894, of the court entertaining the appeal, that the purchase of the annuity and the making or any variation of the insurance, or of any prior insurance for which the first-mentioned insurance was directly or indirectly substituted, were not associated operations.

1940 c. 29.

In this subsection "associated operations" has the meaning given by section 59 of the Finance Act 1940.

1910 c. 8.

(3) In section 59(2) of the Finance (1909-10) Act 1910 the words from "which are proved" to "the circumstances or" (exemption for gifts forming part of normal expenditure) shall cease to have effect.

(4) This section has effect as respects a gift made after 19th March 1968, and in the case of a death after that date.

Aggregation.

38.—(1) For the purposes of aggregation, any property which under section 2(1)(c) of the Finance Act 1894 (gifts *inter vivos* and other dispositions in life-time of the deceased) passes on the death shall be property in which the deceased had an interest.

(2) Subsection (1) above applies in particular in relation to—

(a) section 4 of the Finance Act 1894 (non-aggregation of property in which deceased never had an interest), and

(b) section 33(2) of the Finance Act 1954 (policies of assurance, etc., in which the deceased never had an interest). PART III
1954 c. 44.

(3) If any property passes on a death under the said section 2(1)(c), and all or part of the property also passes, as non-aggregable property, on the death otherwise than under the said section 2(1)(c), estate duty shall be charged and levied on the property as if it passed solely under the said section 2(1)(c).

(4) If part of any property passes on a death under the said section 2(1)(c), and that part is comprised in property which, or part of which, also passes, as non-aggregable property, on the death otherwise than under the said section 2(1)(c), estate duty shall be charged and levied on the part passing under the said section 2(1)(c) as if it passed solely thereunder, and shall be charged and levied separately on any other part of the property.

(5) For the purposes of subsections (3) and (4) above—

(a) property passes as non-aggregable property under any estate duty provision if, on the footing that it so passes, it would be property in which the deceased never had an interest,

(b) the amount or value of any property or part of property shall be ascertained before any reduction under section 64 of the Finance Act 1960 (graduation of charge) and 1960 c. 44.

(c) references to any property or part of property include references to rights or interests in the property.

(6) This section shall apply in the case of a death after 19th March 1968.

(7) Subject to the following subsections, this section shall not apply to property passing on the death as comprised in a gift of, or of rights under, a policy of assurance on the life of the deceased issued in respect of an insurance made before 20th March 1968.

(8) If the aggregate value of all policies related to the death which were issued in respect of an insurance made before 20th March 1968 exceeds £25,000 the relief given by subsection (7) above shall apply only to a fraction of the said property, and that fraction shall be £25,000 divided by the said aggregate value:

Provided that the rate at which estate duty is to be charged in respect of that fraction of any property shall not be less than the rate at which it would have been charged if the relief given by subsection (7) was not restricted by this subsection.

PART III

(9) The relief given by subsection (7) above in respect of a policy which had matured or been surrendered before 20th March 1968 shall not be reduced under subsection (8) above, and the value of all such matured or surrendered policies shall be left out of account under the said subsection (8).

(10) If the terms of a policy are varied after 19th March 1968 in such a way that the value of the policy is greater than it would have been if no variation had been made—

- (a) the relief given by subsection (7) above shall apply only to such part of any gift as can justly be attributed to the value the policy would have had if not varied, and
- (b) the policy shall be brought into subsection (8) above at that value, and the fraction in that subsection shall be applied to the said part of the gift.

(11) Where by virtue of subsection (8) or subsection (10) above, or of both of those subsections, the relief given by subsection (7) above applies only to a part of any gift, the part of the gift to which the relief does not apply shall in accordance with subsection (1) above be property in which the deceased had an interest and shall be aggregated under section 4 of the Finance Act 1894 accordingly.

1894 c. 30.

(12) The provisions of this section shall apply to a contract for a deferred annuity becoming payable on the death of the deceased as if it were a policy of assurance on the life of the deceased.

(13) For the purposes of this section—

- (a) the value of a policy is the amount or value, as at the death, of the sums payable or other benefits arising under the policy, whether or not the policy continues on foot until the death, except that the value of a policy which has been surrendered at a time before the death is the value at that time of the consideration for the surrender ;
- (b) a policy is related to the death if it is a policy on the life of the deceased, if property comprised in a gift of, or of rights under, the policy passes on the death, and if that property would, if this section had not been enacted, have been property in which the deceased never had an interest.

Discretionary trusts.

39.—(1) This section has effect, in the case of a death after 19th March 1968, for all the purposes of the enactments relating to estate duty, and in particular for the purposes of

section 2(1)(b) of the Finance Act 1894 (property in which the deceased or any other person had an interest ceasing on the death of the deceased). PART III
1894 c. 30.

(2) If a discretionary trust is limited to determine on a death then, for the purposes of estate duty leviable on that death, the persons eligible under the discretionary trust to receive the whole or any part of the income of any property shall together be treated as having an interest in the property limited to cease on the death, and as having an interest in the property which is different from any interest which those persons or any of them may have otherwise than under the discretionary trust.

(3) Subsection (2) above applies whether or not there is a discretion or power to accumulate all or any part of the income and accordingly where only one person is eligible to receive all or any part of the income, but there is such discretion or power, he shall be treated as having an interest in the property.

(4) Subsections (2) and (3) above shall not apply to a statutory or other trust for the maintenance of a person under the age of 21 limited to determine on his attaining the age of 21, or at any earlier time, as being a trust which is also limited to determine on his death (that is to say on his death before attaining that age or before that time).

(5) Where in accordance with the preceding provisions of this section any persons are to be treated as having an interest in property, that interest shall be an interest in possession in any period if income of the property arising in that period was or could have been distributed to them or any of them, and references to an interest becoming an interest in possession shall be construed accordingly.

(6) Where in accordance with the preceding provisions of this section any persons are to be treated as having an interest in property, the value of the benefit accruing or arising from the cesser of the interest shall—

- (a) if the whole of the income of the property was or could have been given to the persons having the interest, or any of them, be the principal value of the property, and
- (b) if less than the whole of the income of the property was or could have been given to the persons having the interest, or any of them, be the principal value of an addition to the property equal to that lesser amount of income.

PART III

(7) References in this section to a trust limited to determine on a death include references to a trust limited to cease in the alternative on the happening of some other event or the expiration of some period, and "discretionary trust" includes a trust under which the disposition of any of the trust income is at the discretion of the trustees or of any other person.

Betterment levy

Minerals:
betterment
levy, income
tax and
corporation
tax.

1967 c. 1.

40.—(1) This section has effect as respects the power of making regulations under section 74 of the Land Commission Act 1967 (power to adapt betterment levy for minerals by regulations requiring affirmative resolution of House of Commons) and has effect without prejudice to the generality of that section.

(2) The amount, rate and incidence of betterment levy in respect of mining leases (as defined by the regulations) may be altered by the regulations so that—

- (a) betterment levy is charged from time to time by reference to the actual amount of the rents, royalties and other payments (including premiums) which are received or become receivable under the lease,
- (b) the rate may be less than that prescribed under section 28 of the Land Commission Act 1967.
- (c) the person chargeable in respect of any payment is, or is ascertained by reference to, the person entitled to the payment,

and the regulations may contain such transitional or other consequential provisions, including provisions making exceptions or modifications in Part III of the said Act of 1967, as may appear to the Minister making the regulations to be necessary or expedient.

(3) The regulations shall, as respects every mining lease, confer a right of election as respects the application to the mining lease of all provisions made in accordance with subsection (2) above so that—

- (a) in the case of a mining lease granted on or after 6th April 1968, an election may be made in accordance with the regulations excluding the application of those provisions ;
- (b) in the case of a mining lease granted before that date, no such provisions shall apply unless an election is made in accordance with the regulations.

(4) Where betterment levy is directly charged on any payment which is charged to tax under section 180 of the Income Tax Act 1952 (mining rents and royalties), the amount of betterment levy so charged shall be treated— PART III
1952 c. 10.

(a) for the purposes of section 181 of that Act (management expenses of owner of mineral rights) as a sum disbursed as an expense of management in the year of assessment for which the tax is charged, and

(b) for the purposes of section 54(4) of the Finance Act 1965 (corresponding provision for corporation tax) as a sum so disbursed in the accounting period in which the payment falls to be taken into account for corporation tax. 1965 c. 25.

(5) Where betterment levy is directly charged on a payment which is charged to tax under Case VIII of Schedule D, the amount of betterment levy so charged shall for the purposes of Case VIII be treated as a payment made by the landlord in respect of management of the property in the year of assessment in which he becomes entitled to the payment:

Provided that where the amount of the payment is reduced under section 22 of the Finance Act 1963 (treatment of premiums and other payments as rent) the amount of the betterment levy charged thereon shall be treated for the purposes of this subsection as reduced in the same proportion. 1963 c. 25.

(6) Paragraph 1 of Schedule 15 to the Finance Act 1967 (premiums, etc., under leases: allowance of betterment levy) shall not apply to betterment levy which is directly charged on any payment. 1967 c. 54.

(7) For the purposes of this section betterment levy is “directly charged” on a payment if it is charged in accordance with regulations made in accordance with subsection (2) above.

(8) This section—

(a) so far as it relates to betterment levy, applies as respects any payment made before or after the passing of this Act, and shall be construed as one with Part III of the Land Commission Act 1967, 1967 c. 1.

(b) so far as it relates to income tax, has effect for the year 1967-68 and subsequent years of assessment, and shall be construed as one with the Income Tax Acts,

(c) so far as it relates to corporation tax, has effect for any accounting period ending after 5th April 1967, and shall be construed as one with the Corporation Tax Acts,

PART III and there shall be made all such adjustments, whether by way of discharge or repayment of tax or the making of assessments, as are required to give effect to this subsection.

(9) The Land Commission shall afford to any officer of the Board such information as he may require for the purposes of this section.

PART IV

THE SPECIAL CHARGE

The special charge.

41.—(1) In the case of an individual whose aggregate investment income for the year 1967-68 exceeded £3,000 plus the amount of his surtax personal allowances, there shall be made in accordance with the provisions of this Part of this Act a special charge in accordance with the following Table—

TABLE

| | | |
|---|--|--------------|
| For every pound of | | |
| the first thousand pounds of the excess ... | | 2 shillings |
| the next thousand pounds of the excess ... | | 3 shillings |
| the next three thousand pounds of the | | |
| excess | | 6 shillings |
| the remainder of the excess | | 9 shillings. |

(2) For the purposes of subsection (1) above the amount of an individual's surtax personal allowances is the amount deductible from his total income for the year 1967-68 under section 14(1) of the Finance Act 1957, without regard to subsection (2) of that section (apportionment between husband and wife).

1957 c. 49.

(3) Subsection (1) above applies—

(a) to any individual domiciled in the United Kingdom in the year 1967-68, and

(b) to any individual not so domiciled, if he was resident and ordinarily resident in the United Kingdom in the year 1967-68, and had been ordinarily resident in the United Kingdom throughout the nine preceding years.

(4) The special charge shall not be made in the case of an individual who died before the end of the year 1967-68, but if a husband or wife died during the year 1967-68, this Part of this Act shall apply to the survivor as if during that year they had not been married.

(5) Schedule 15 to this Act shall have effect as respects trustees, including personal representatives, and income arising under a trust.

(6) Except as otherwise expressly provided expressions used in this Part of this Act have the same meanings as in the Income Tax Acts.

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(7) This Part of this Act shall extend to Northern Ireland and the Government of Ireland Act 1920 shall have effect as if the special charge were included among the taxes mentioned in section 22(1) of that Act (reserved taxes). 1920 c. 67.

42.—(1) This section shall apply in ascertaining investment income and aggregate investment income for the purposes of this Part of this Act. *Investment income.*

(2) Subject to the provisions of this Part of this Act, “investment income” means income from any source other than a source of earned income and other than income chargeable under Case VII of Schedule D (short-term capital gains), and the “aggregate investment income” of an individual shall be taken to be the aggregate of his investment income from all sources.

(3) Subject to the provisions of this Part of this Act, income from any source shall be ascertained as it is ascertained for the purposes of surtax, and income shall be treated as income of an individual if it would be so treated for the purposes of surtax.

(4) Investment income shall not include—

- (a) income from investments (including land) which falls to be taken into account as a receipt in computing, in accordance with the provisions of the Income Tax Acts, 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) 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 (5) below.

(5) Investment income shall include 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 subsection (4)(a) above.

(6) Investment income shall not include—

- (a) any annuity purchased for an individual in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or settlement out of income of property disposed of by the will or settlement, or

PART IV

(b) royalties or other sums paid for or in respect of—

(i) the copyright in a literary, dramatic, musical or artistic work, or

(ii) the use of a patent,

where the copyright or patent or the right to receive such sums has devolved by will or on intestacy on the death of the author or inventor, and the recipient took on that death or after one or more further devolutions on death, or

1952 c. 10.

(c) any amount as being a sum charged to surtax under section 242 of the Income Tax Act 1952 (consideration for certain restrictive covenants, etc.).

(7) Subject to the following provisions of this section, in ascertaining aggregate investment income any deduction in respect of interest, annuities or other annual payments allowable in computing the individual's total income for the year 1967-68 for surtax shall be allowed as a deduction.

(8) In ascertaining aggregate investment income no deduction shall be allowed in respect of—

1966 c. 10.

(a) payments of any of the descriptions in subsections (1), (2), (3) and (4) of section 23 of the Finance Act 1966 (whether or not the disposition was made after 6th April 1965),

(b) periodical payments allowable as deductions in ascertaining total income for surtax, being payments—

(i) in pursuance of an order of any court for the payment of maintenance or aliment or in pursuance of an affiliation order or a decree of affiliation and aliment, or

(ii) in pursuance of a disposition not made for full consideration in money or money's worth,

or any other payments constituting income of the description in subsection (5) of section 23 of the Finance Act 1966 (whether or not the disposition was made after 6th April 1965),

(c) payments allowable as deductions in computing profits or gains of any description,

(d) any loss incurred in carrying on a trade, profession, employment or vocation, or in the occupation of woodlands in respect of which the person in question has elected to be charged to tax under Schedule D.

(9) Payments within paragraphs (a) and (b) of subsection (8) above shall not be treated as the income of any person other than the person making the payment.

(10) In ascertaining aggregate investment income the amount of any allowance under Part X of the Income Tax Act 1952 (capital allowances) available or primarily available against a specified class of income for the year 1967-68 shall be allowed as a deduction, in so far only as the amount of the allowance does not exceed the individual's investment income for that year of that class. PART IV
1952 c. 10.

(11) In ascertaining aggregate investment income no deduction shall be allowed in respect of payments which are deemed under paragraph 9(1) of Schedule 21 to the Income Tax Act 1952 (underwriters' payments into special reserve fund) to be annual payments, and the following (also relating to underwriters) shall not be treated as the income of any person, namely—

(a) payments deemed to be annual payments under sub-paragraph (2) or sub-paragraph (3) of the said paragraph 9,

(b) annual payments deemed to have been received under section 3(2) of the Finance (No. 2) Act 1955. 1955 c. 17
(4 & 5 Eliz. 2.).

43.—(1) Subject to the provisions of this Part of this Act, the special charge in respect of an individual's aggregate investment income shall be made by assessment on that individual, and shall be payable by that individual. Due date,
interest and
administration.

(2) Subject to the provisions of this Part of this Act, the special charge shall be payable on or before 1st January 1969, or on the day next following the making of the assessment, whichever is the later.

(3) If all or any part of the special charge, whether already assessed or not, is not paid by 1st January 1969, it shall carry interest at the rate of four per cent. per annum from that date to the date of payment:

Provided that interest shall not be payable on the special charge made by any assessment unless the total amount of the interest exceeds five pounds.

(4) The interest payable under subsection (3) above shall be paid without any deduction of income tax and shall be recoverable from the like persons as if it were part of the special charge in respect of which it is payable.

(5) So far as all or any part of the special charge carries interest from 1st January 1969 to the date when the special charge, or that part of it, becomes due, the grossed-up amount of that interest shall be allowable as a deduction in computing income for surtax for the year of assessment in which the interest is paid, but, subject to that, interest payable under subsection (3) above for any period shall not be allowable as a deduction for surtax or for any other purpose.

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In this subsection the "grossed-up" amount of any interest is such amount as would, after deduction of tax at the standard rate for the year in which it is paid, equal the amount of interest paid.

(6) The special charge shall be under the care and management of the Board.

(7) Subject to the provisions of this Part of this Act, the special charge shall be assessed and recoverable as if it were an amount of surtax, and all enactments applying to the management and administration of income tax, including those relating to incapacitated persons and personal representatives, those relating to assessing, collecting and receiving of income tax and those conferring or regulating a right of appeal, shall apply accordingly.

(8) The Board shall have power by regulations contained in a statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament—

(a) to direct that any of the provisions applied by subsection (7) above shall have effect as may be prescribed by the regulations, and subject to such exceptions or modifications as may be so prescribed, and

(b) to make further provision for the management, administration and collection of the special charge and interest thereon, including provision for enabling any question which may affect the liability of two or more persons to pay the special charge in respect of any particular investment income to be determined for all those persons in the same proceedings.

(9) Where an assessment, or a decision on a claim, which under the provisions of this Part of this Act may affect the amount of an individual's aggregate investment income has become final and conclusive for the purposes of the Income Tax Acts, it shall be final and conclusive for the purposes of this Part of this Act as to the amount of the income or relief in question.

(10) An assessment to the special charge in respect of an individual's aggregate investment income may be made at any time if an assessment to surtax in respect of that individual's total income for the year 1967-68 could be then made within the time limited by the Income Tax Acts for the making of assessments to surtax.

(11) The Board may, whether an assessment to the special charge has been made or not, by notice in writing require any person in whose case it appears to the Board that the special charge may be payable by, or recoverable from, him, and that

he has in his possession any information relevant to the assessment or recovery of the special charge, to furnish to the Board within such time as may be specified in the notice, not being less than thirty days, such particulars as they consider necessary for the purposes of the assessment or recovery of the special charge.

Part III of the Finance Act 1960 (penalties) shall have effect as if this subsection were referred to in column 2 of Schedule 6 to that Act, and subject to any modifications necessary for applying the said Part III to the special charge as it applies to income tax. 1960 c. 44.

(12) Special Commissioners or other persons who have made declarations in the form in Part I of Schedule 1 to the Income Tax Management Act 1964, or in the amended form provided for in paragraph 16 of Schedule 10 to the Finance Act 1965, shall be subject to the same obligations as to secrecy with respect to the special charge as they are subject to with respect to income tax. 1964 c. 37. 1965 c. 25.

44.—(1) In ascertaining aggregate investment income, subsections (1), (2) and (4) of section 354 (wife's income to be treated as that of her husband) and section 361 (separation, etc.) of the Income Tax Act 1952 shall apply as they apply for the purposes of income tax, but subject to the following provisions of this section. Husband and wife. 1952 c. 10.

(2) Subsection (3) below 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 Board, or
- (b) where an application by the husband or wife under section 356 of the Income Tax Act 1952 for separate assessment to surtax has effect as respects the year 1967-68, unless notice in writing requiring that subsection (3) below shall not apply is given both by the husband and by the wife in such manner and form as may be prescribed by the Board:

Provided that no application or notice under this subsection shall be made or given after 5th October 1968 or such later date, not falling after the expiration of thirty days from the giving to the husband of a notice of the assessment to the special charge, as the Board may allow.

(3) Where the provisions of this subsection apply—

- (a) the husband and wife shall be assessed under this Part of this Act, and the special charge shall be recoverable, as if they were not married, and this Part of this Act shall apply to each of them accordingly, but

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(b) in ascertaining 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

(c) the amount of the special charge payable by reference to the aggregate investment income so ascertained shall be divided between the husband and wife in proportion to the amounts of their respective aggregate investment incomes, after deducting the surtax personal allowances (that is to say the amount deductible under section 14(1) of the Finance Act 1957) apportioned in accordance with paragraph (d) below, and

1957 c. 49.

(d) that apportionment shall be made—

(i) in the case of the allowances within subsection (2)(b)(i) of the said section 14 (allowances for certain children and dependants), according to the apportionment in the said sub-paragraph (i),

(ii) in the case of any other allowances, according to the respective amounts of the aggregate investment incomes of the husband and wife,

but so that, if the amount by which the aggregate investment income of either falls to be reduced under sub-paragraph (i) or (ii) of this paragraph exceeds the amount of that aggregate investment income, the aggregate investment income of the other shall be treated as reduced by the amount of the excess.

(4) Section 359 (collection from wife of tax assessed on husband attributable to her income) and section 360 (disclaimer by husband of liability for tax on deceased wife's income) of the Income Tax Act 1952 shall apply with any necessary modifications for the purposes of the special charge as they apply for the purposes of income tax.

1952 c. 10.

Close companies.

45.—(1) It is hereby declared that, subject to subsection (3) below, investment income includes any amount apportioned for purposes of surtax (whether originally or by one or more sub-apportionments) to an individual under section 78 of the Finance Act 1965.

1965 c. 25.

(2) Subsection (5) of section 249 of the Income Tax Act 1952 as applied by the said section 78 (which, for surtax, prevents undistributed income which has been assessed and charged to surtax in pursuance of the said section 78 from being again assessed when distributed) shall apply for the purposes of computing investment income, but the other provisions of the said section 249 shall not apply for the purposes of this Part of this Act.

(3) The Board may, if they see reason for it, apportion the whole of the income of a close company for the accounting period ending in the year 1967-68, up to the amount of the required standard, among the participators, and any amount apportioned to another close company, whether originally or by one or more sub-apportionments under this subsection, shall be further apportioned among the participators in that company.

Any income apportioned to an individual under this subsection shall be included in his aggregate investment income.

(4) Where the Board have made an apportionment under subsection (3) above, any distribution made by the company and any apportionment of the company's income for surtax shall be left out of account in ascertaining aggregate investment income for the purposes of the special charge.

(5) Subsection (3) above shall not apply in the case of a trading company or of a member of a trading group.

(6) Schedule 16 to this Act shall have effect for supplementing and giving effect to this section.

(7) For the purposes of this section and the said Schedule—

- (a) "distribution" shall have the meaning assigned by 1965 c. 25. Schedule 11 to the Finance Act 1965,
- (b) "the required standard" has the meaning given by section 77(2) of the Finance Act 1965,
- (c) other expressions shall be construed in accordance with the provisions of the Corporation Tax Acts relating to close companies.

(8) For the said purposes "the accounting period ending in the year 1967-68", in relation to a close company—

- (a) if there is one, and only one, accounting period of the company ending in the year 1967-68, and it is an accounting period of twelve months, means that accounting period,
- (b) if not, means the parts of accounting periods, and any whole accounting periods, falling within the year 1967-68, apportioning income of any accounting period to the respective parts in accordance with section 89(6) of the Finance Act 1965.

46.—(1) Where, on a claim being made, the Board are satisfied as respects any assets that 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, the Board shall in ascertaining aggregate investment income for the purposes of this Part of this

Relief where income attributable to period of years was received in 1967-68.

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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.

1952 c. 10.

Section 240(1) of the Income Tax Act 1952 shall apply for the purposes of this subsection as it applies for the purposes of section 238 of that Act (corresponding provision for surtax).

(2) If an individual's investment income includes an amount in respect of which a claim could be made for relief under section 472 of the Income Tax Act 1952 (spreading of patent royalties over several years) a claim may be made under this section requiring that amount to be reduced, in ascertaining the individual's aggregate investment income, by multiplying by the fraction of which—

(a) the numerator is one, and

(b) the denominator is the six or less number of instalments into which that amount would be divided by a claim under the said section 472.

1963 c. 25.

(3) If an individual's investment income includes an amount in respect of which a claim could be made for relief under Schedule 6 to the Finance Act 1963 (premium, etc. treated as rent) a claim may be made under this section requiring that amount to be reduced, in ascertaining the individual's aggregate investment income, to the yearly equivalent of that amount, as defined in paragraph 1 of the said Schedule 6, less any sums deductible under paragraph 3(1)(a) of the said Schedule 6.

(4) A claim for relief under this or either of the two next following sections—

(a) may be made by any person who has borne or is liable to bear the special charge in respect of the income in question, either by assessment or by a payment under Schedule 15 to this Act,

(b) shall be made to the Board,

(c) shall be made not later than the end of the year 1973-74, except that a claim which could not have been allowed but for the making of an assessment to the special charge in the year 1973-74 or a later year may be made at any time before the end of the year of assessment following that in which the assessment was made,

1964 c. 37.

and section 9 of the Income Tax Management Act 1964 shall apply to the claim as it applies for the purposes of income tax.

(5) Where in pursuance of a claim for relief under this or either of the two next following sections any amount of the special charge is repaid, there shall also be repaid any interest paid in respect of that amount of the special charge.

47.—(1) If on a claim being made it is shown to the satisfaction of the Board that—

PART IV

Relief where capital is subject to estate duty or capital gains tax.

- (a) in consequence of a death occurring before the end of the year 1967-68 estate duty or capital gains tax became payable in respect of any assets, and
- (b) investment income affecting, whether directly or indirectly, the amount of the special charge arose from the assets, and
- (c) the amount of that income exceeded what it would have been if all estate duty and capital gains tax payable in consequence of the death had been paid immediately on the occurrence of the death or other event whereby the estate duty or capital gains tax became payable,

the amount of the said investment 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 Board may determine to be appropriate to offset the excess.

(2) In this section “ estate duty ” includes estate duty payable under the law of Northern Ireland, and references to capital gains tax payable in consequence of a death shall be construed in accordance with subsection (8) and subsection (9)(a) of section 26 of the Finance Act 1965.

1965 c. 25.

48. If on a claim being made it is shown to the satisfaction of the Board that—

Relief in respect of error or mistake.

- (a) by reason of an error or mistake in a return or statement made for the purpose of the special charge, or for the purpose of income tax (including surtax), an assessment to the special charge was excessive, or
- (b) that after an assessment to the special charge became final, any adjustment was made under the provisions of the Income Tax Acts of any income which affected the ascertainment of aggregate investment income,

the Board shall make any appropriate adjustment.

49.—(1) Part XIII of the Income Tax Act 1952 together with any other enactment relating or referring to double taxation relief, and any arrangements made under section 347 of that Act in relation to income tax, shall have effect in relation to the special charge and investment income as they are expressed to have effect in relation to income tax and income subject to income tax.

Double taxation relief.
1952 c. 10.

(2) In paragraph 5(1)(b) of Schedule 16 to the said Act (limit on total credit), as it applies to the total income for the year 1967-68 of an individual whose investment income is subject to the special charge, the sum of the rates there specified

PART IV (effective income tax rate plus effective surtax rate) shall be increased for the purpose of allowing credit for foreign tax in respect of investment income by adding the rate ascertained by dividing the special charge by the amount of his aggregate investment income.

Transactions designed to avoid liability.

50.—(1) Where, as a result of any action or decision taken by any person on or after 19th March 1968, an individual's aggregate investment income is, apart from this section, less by any amount than it would have been but for that action or decision, his aggregate investment income shall for the purposes of this Part of this Act be increased by that amount unless it is shown to the satisfaction of the Board that avoidance of, or reduction of liability to, the special charge was not the main object or one of the main objects of the action or decision.

(2) Without prejudice to the generality of subsection (1) above, the following shall be treated for the purposes of that subsection as actions or decisions as a result of which an individual's aggregate investment income is less than it would have been but for the action or decision—

- (a) the forgoing of any investment income to which the individual or his wife would otherwise have been entitled as income of the year 1967-68,
- (b) the postponement of any entitlement to or receipt of investment income so as to prevent it from being income of the year 1967-68,
- (c) the making of a settlement of which the individual or his wife is the settlor in consequence of which investment income becomes payable to any person or persons other than the individual or his wife,
- (d) the incurring of any expenditure (including any liability to pay interest) which, but for this section, would affect the amount of the individual's aggregate investment income.

(3) If it appears that the main benefit which might have been expected to accrue from the action or decision was the avoidance or reduction of liability either to the special charge, or to the special charge and surtax together, the avoidance or reduction of liability to special charge shall be deemed for the purposes of this section to have been the main object, or one of the main objects, of the action or decision.

(4) If it appears to the Board that any person has taken or may have taken any action or decision as a result of which an individual's aggregate investment income is less than it would have been but for the action or decision, and that that person has in his possession any information relevant for the

purpose of giving effect to this section, the Board may, whether an assessment to the special charge has been made or not, by notice in writing require that person to furnish to the Board within such time as may be specified in the notice, not being less than thirty days, such particulars as they consider necessary for that purpose. PART IV

Part III of the Finance Act 1960 shall have effect as if this subsection were referred to in column 2 of Schedule 6 to that Act, and subject to any modifications necessary for applying the said Part III to the special charge as it applies to income tax. 1960 c. 44.

(5) In this section "settlement" and "settlor" have the meanings given by section 403 of the Income Tax Act 1952. 1952 c. 10.

PART V

SELECTIVE EMPLOYMENT TAX

51.—(1) In relation to any contribution week beginning on or after 2nd September 1968, for paragraphs (a) to (d) of section 44(1) of the Finance Act 1966 (which specify the weekly amount payable in respect of a person by way of selective employment tax) there shall be substituted the following paragraphs:— Selective employment tax.
1966 c. 18.

- " (a) if that person is a man over the age of 18, 37s. 6d. ; or
- (b) if that person is a woman over the age of 18, 18s. 9d. ;
- or
- (c) if that person is a boy under the age of 18, 18s. 9d. ; or
- (d) if that person is a girl under the age of 18, 12s."

(2) Section 1 of the Provisional Collection of Taxes Act 1968 shall apply to selective employment tax; and accordingly, in subsection (1) of that section, after the words "income tax" there shall be inserted the words "selective employment tax". 1968 c. 2.

(3) In Schedule 12 to the Finance Act 1967, the references to Part VI of the Finance Act 1966 in paragraphs 8 and 10 shall be construed as including references to this section. 1967 c. 54.

(4) This section shall be construed as one with Part VI of the Finance Act 1966 and shall extend to Northern Ireland, but for the purposes of section 6 of the Government of Ireland Act 1920 shall be deemed to be contained in an Act passed before the appointed day. 1920 c. 67.

52.—(1) With a view to the making by the Secretary of State of selective employment payments by way of refund of selective employment tax in respect of persons employed in certain hotels or similar establishments in the areas specified in Selective employment payments.

PART V
1966 c. 32.

Schedule 17 to this Act, section 2 of the Selective Employment Payments Act 1966 shall have effect in respect of any contribution week beginning on or after 2nd September 1968 with the following amendments, namely—

- (a) in subsection (2)(a), after the words “ paragraphs (a) to (e) ” there shall be inserted the words “ or, subject to subsection (3A) of this section, in paragraph (f) ”;
- (b) in subsection (3), at the end there shall be added the following paragraph :—
 - “ (f) subject to subsection (3A) of this section, activities of a hotel, inn, boarding house, guest house or holiday camp ”;
- (c) after subsection (3) there shall be inserted the following subsection :—
 - “ (3A) Subsection (3)(f) of this section shall have effect only where the establishment in question—
 - (a) contains not less than four rooms which at all times during the contribution week in question were available for use in return for payment as sleeping accommodation by guests or lodgers at the establishment ; and
 - (b) is situated within an area specified in Schedule 17 to the Finance Act 1968 ”;
- (d) in subsection (5)(a), after the words “ paragraphs (a) to (d) ” there shall be inserted the words “ or under paragraph (f) ”.

1967 c. 54.

(2) In relation to any such contribution week as aforesaid, in section 25(1) of the Finance Act 1967 (which provides for a refund to the employer in respect of certain persons in part-time employment of an amount equal to half the tax paid) for the word “ half ” there shall be substituted the words “ two-thirds of ”; and the said section 25(1) shall have effect subject to subsection (4) of this section.

1965 c. 51.

(3) Where an employer has paid selective employment tax in respect of any person for any such contribution week as aforesaid and throughout that week that person was for the purposes of the National Insurance Act 1965 over the age of 65, then, subject to subsections (4) and (5) of this section, the Minister of Social Security shall make to that employer in respect of that person and that week a payment of an amount equal to two-thirds of the tax paid.

(4) Where a payment has been made to an employer in respect of any person and any contribution week under the said

section 25(1) or under subsection (3) of this section, the employer shall not be entitled to a payment in respect of that person and that contribution week under the other of those provisions.

PART V

(5) In Schedule 12 to the Finance Act 1967—

1967 c. 54.

- (a) paragraphs 2, 3 (other than sub-paragraphs (b) and (c)), 5, 6 and 11 shall have effect as if references to the said section 25(1) included references to subsection (3) of this section ;
- (b) any question arising under the said subsection (3) as to whether a person was or was not over the age of 65 at a particular time shall be deemed to be included among the questions mentioned in paragraph 8 ;
- (c) in paragraphs 8, 12 and 13 references to Part IV of the Finance Act 1967 shall include references to this section.

(6) Where the Minister by whom any register of establishments is maintained under section 7(1) of the Selective Employment Payments Act 1966—

- (a) after having acceded to an application under section 10(3) of that Act by an employer with respect to the treatment of any premises, is at any time satisfied that, by reason of a change in the circumstances of the business of which those premises form part, it is proper so to do ; or
- (b) having on acceding to such an application given notice in writing to the employer that he proposes to afford that treatment to those premises only if or for so long as specified conditions are fulfilled, is at any time satisfied that those conditions are not fulfilled,

that Minister may, after giving not less than four weeks notice in writing to the employer of his intention so to do, cease to afford that treatment to those premises.

(7) This section shall be construed as one with the Selective Employment Payments Act 1966.

PART VI

MISCELLANEOUS

53.—(1) In section 495(2) of the Income Tax Act 1952 and interest on overdue tax. Interest on
in section 8(2) of the Finance (No. 2) Act 1947 (remission of 1952 c. 10.
interest for tax paid not later than three months from the date 1947 c. 9
on which it becomes due and payable) for the words “ three 11 & 12 Geo.
months ” there shall be substituted the words “ two months ”. 6.).

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1952 c. 10.

(2) Without prejudice to the general interpretative provisions of this Act, this section applies to the enactments mentioned in subsection (1) above as extended by any other enactment, and in particular it applies to section 495(2) of the Income Tax Act 1952 as extended to capital gains tax and corporation tax.

(3) This section has effect as respects tax becoming due and payable on or after 1st July 1968.

Premium
savings bonds:
increase of
prize money.

54.—(1) The terms of issue of premium savings bonds shall be altered by substituting for the prospectus relating to the issue of bonds of series B the provisions of Schedule 18 to this Act, being provisions which—

(a) increase the rate of interest at which the prize fund is calculated from $4\frac{1}{2}$ per cent. to $4\frac{3}{8}$ per cent. (but subject, as in the existing prospectus, to a power of varying the rate of interest by giving not less than three months notice), and

(b) give effect to that increase in the rate of interest by providing for—

(i) a weekly draw of one £25,000 prize, and

(ii) an adjustment of the prizes on the monthly draw.

(2) Subsection (1) above shall come into force on 1st September 1968 and have effect as respects all bonds issued before that date, whether before or after the passing of this Act.

(3) If after the coming into force of subsection (1) above the Treasury issue premium savings bonds on the terms set out in the said Schedule to this Act, they may use any stock of forms of bonds which were prepared before the passing of this Act, notwithstanding that the forms refer to the prospectus superseded by subsection (1) above, and bonds issued in that form shall be valid and effectual as if they stated that the bond was issued under the terms in the said Schedule to this Act.

This subsection applies whether or not the bonds are issued after notice has been given, in pursuance of paragraph 15 in the said Schedule, of a variation of its terms.

(4) In this section “bonds of series B” means the second issue of premium savings bonds, and “premium savings bonds” means both those issued under the National Loans Act 1939 and those issued under the National Loans Act 1968.

1939 c. 119.
1968 c. 13.

Exchange
control.

1947 c. 14.
1964 c. 60.

55.—(1) The definitions of “securities” and “security” in section 42(1) of the Exchange Control Act 1947 and in section 2(3) of the Emergency Laws (Re-enactments and Repeals) Act 1964 (power of Treasury to prohibit action on certain orders as to securities) shall include—

(a) certificates of deposit,

(b) Government bills, and

PART VI

(c) any description of promissory notes which is for the time being prescribed under this paragraph for the purposes of the Exchange Control Act 1947, or of the 1947 c. 14. said section 2, or both.

(2) Sections 21 and 22 of the Exchange Control Act 1947 (restrictions on import and on export) shall apply as if the references therein to Treasury bills included references to all Government bills, certificates of deposit and any description of promissory notes which is for the time being prescribed under subsection (1)(c) above for the purposes of the Exchange Control Act 1947.

(3) In this section—

“certificate of deposit” means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable,

“Government bill” means any bill, note or other obligation of a Government in any part of the world, being a document by the delivery of which, with or without endorsement, title is transferable, and not being an obligation which is or has been legal tender in any part of the world, and “Government bill” includes in particular a Treasury bill,

“prescribed”—

(a) in relation to the Exchange Control Act 1947, has the same meaning as in that Act,

(b) in relation to the said Act of 1964, means prescribed by the Treasury by order in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament,

and any such order may be varied or revoked by a subsequent order so made.

(4) This section has effect notwithstanding that the said definitions of “securities” and “security” exclude promissory notes.

(5) This section—

(a) so far as it relates to the Exchange Control Act 1947, shall be construed as one with that Act, and

(b) so far as it relates to the said Act of 1964, shall be construed as one with section 2 of that Act,

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1947 c. 14.

(6) The amendments made by this section in the Exchange Control Act 1947 shall take effect also in the provisions of that Act which extend to the Channel Islands by virtue of any Order in Council under section 43(3) of that Act, and this section shall apply outside the United Kingdom in the same way as that Act, or as the case may be, section 2 of the said Act of 1964, so applies.

Stamp duties:
amendments
as respects
loan capital
duty.
1967 c. 54.
1899 c. 9.

56.—(1) Subsections (3) and (4) of section 28 of the Finance Act 1967 (under which loan capital issued by a company and incapable of being dealt in on a United Kingdom stock exchange is exempt from duty under section 8 of the Finance Act 1899 if it is repayable within five years of issue, on demand, or after notice not exceeding one year) shall have effect as respects loan capital issued on or after 1st August 1968 as if, for each reference to five years, there were substituted a reference to ten years.

(2) Subsection (2) of the said section 28 (under which payment of duty under the said section 8 franks any trust deed or other instrument securing the loan capital in question) shall have effect in relation to any trust deed or other instrument securing loan capital issued after the passing of this Act by a corporation, company or body of persons formed or established in Northern Ireland as if the references therein to duty under the said section 8 were references to duty under that section as it has effect in Northern Ireland.

Stamp duties:
further
provisions
as to
composition
by bankers.
1891 c. 39.
1956 c. 54.

57.—(1) This section applies to the duty chargeable under the heading “Bill of Exchange or Promissory Note” in Schedule 1 to the Stamp Act 1891.

(2) Section 39(1)(a) of the Finance Act 1956 (under which the Commissioners may enter into an agreement with any banker for the composition of that duty so far as chargeable on instruments which are drawn on the banker by his customers and on forms supplied by him) shall be amended so as to read—

“(a) drawn either on the banker or on another banker by customers of, and on forms supplied by, the former, or”;

and, in any agreement under the said section 39 made with a banker before the passing of this Act, references to instruments drawn on the banker by his customers on forms supplied by him shall, as respects accounting periods thereunder beginning after 20th July 1968, be construed as references to instruments drawn either on the banker or on another banker by customers of, and on forms supplied by, the former.

(3) The Commissioners may, in accordance with the following provisions of this section, enter into an agreement with any banker for the composition of the duty so far as chargeable on instruments of any description specified in the agreement, being instruments which are drawn on the banker and presented to him for payment.

(4) Any such agreement shall require the banker to deliver to the Commissioners periodical accounts in respect of the instruments to which it relates, giving such particulars with respect thereto as may be specified in the agreement, and may contain such other terms and conditions as the Commissioners think proper.

(5) Where any such agreement has been made with a banker, no instrument to which the agreement relates shall be chargeable with the duty if it contains the statement "Stamp duty (if any) compounded for under section 57 of the Finance Act 1968", but the banker shall pay to the Commissioners, on the delivery of any account under the agreement, such sums as would apart from this section have been chargeable by way of the duty on instruments to which the agreement relates so far as presented to him for payment during the period to which the account relates.

(6) Where a banker makes default in delivering any account required by any such agreement, or in paying the duty payable on the delivery of any such account, he shall be liable to a fine not exceeding £50 for any day during which the default continues, and shall also be liable to pay to Her Majesty, in addition to the duty, interest thereon at the rate of 5 per cent. per annum from the date when the default begins.

(7) Any person who—

- (a) utters an instrument which is chargeable with the duty, but which contains the statement referred to in subsection (5) above or any other indication that it need not be stamped, or
- (b) procures the printing of a form containing the said statement, or any other indication that it need not be stamped, being a form which is capable of being completed as an instrument chargeable with the duty and which he does not reasonably believe will be completed (if at all) as an instrument not so chargeable,

shall be liable on summary conviction to a fine not exceeding £100.

(8) This section shall be construed as one with the Stamp Act 1891.

PART VI
Reliefs from
surcharge
under Sugar
Act 1956.
 1956 c. 48.

58.—(1) The Commissioners may remit or repay any surcharge under section 7 of the Sugar Act 1956 if they are satisfied that the sugar in respect of which it is payable or has been paid will be, or has been, dealt with in either of the following ways, that is to say—

- (a) treated in a manner approved by the Minister so as to render it unsuitable for human consumption ; or
- (b) used in the manufacture of goods of any description prescribed for the purposes of this paragraph, at the time when the sugar was or is so used, by an order made by the Minister.

(2) In any case in which the Commissioners have power under subsection (1) of this section to remit or repay a surcharge in respect of any sugar if satisfied that it will be, or has been, dealt with as mentioned in that subsection, they shall have the like power if satisfied that a quantity of sugar corresponding to the sugar in question will be, or has been, dealt with as aforesaid.

(3) The goods prescribed by the Minister for the purposes of subsection (1)(b) of this section shall be such as it appears to him to be expedient to prescribe for those purposes in the interests of the national economy.

(4) Any remission or repayment under this section shall be subject to such conditions as the Commissioners may see fit to impose, including, in particular, conditions for securing that relief from surcharge is not obtained more than once (whether under this section or any other enactment) in relation to the same sugar.

(5) For the purposes of this section—

- (a) “ goods ” includes any part or ingredient of any goods and “ sugar ” includes invert sugar ;
- (b) in determining whether two quantities of sugar correspond with each other, the Commissioners shall have regard to their respective degrees of polarisation or, in the case of invert sugar, to the amount of sweetening matter which they respectively contain.

(6) This section shall be construed as one with the said Act of 1956 ; and orders under this section shall be included among the orders to which section 33(2) of that Act (which makes certain orders subject to annulment in pursuance of a resolution of either House of Parliament) applies.

Confirmation
of social
services
agreement
with Northern
Ireland.
 1949 c. 23.

59.—(1) Confirmation is hereby given to the agreement set out in Schedule 19 to this Act, being an agreement between the Treasury and the Ministry of Finance for Northern Ireland which amends (as from 28th November 1966, but only if confirmed by Acts of the Parliaments of the United Kingdom and Northern Ireland) an agreement scheduled to the Social Services

(Northern Ireland Agreement) Act 1949 and entered into with a view to assimilating the burdens on the Exchequers of the United Kingdom and Northern Ireland in respect of certain social and allied services.

PART VI

(2) There shall be charged on and paid out of the Consolidated Fund of the United Kingdom any additional sums which, by virtue of the agreement hereby confirmed, are payable under the agreement thereby amended from the Exchequer of the United Kingdom to the Exchequer of Northern Ireland.

(3) This section shall not come into operation unless and until Her Majesty by Order in Council declares that a corresponding provision has been enacted by the Parliament of Northern Ireland.

60. In section 1(4) of the Provisional Collection of Taxes Act 1968 (circumstances in which a resolution ceases to have statutory effect) paragraph (b) (under which a resolution continues in force if a Bill is amended by the House so as to implement the resolution within twenty-five sitting days from the passing of the resolution) shall have effect as if after the words 'is amended by the House' there were added the words 'in Committee or on Report, or by any Standing Committee of the House'.

Provisional collection of taxes.
1968 c. 2.

61.—(1) This Act may be cited as the Finance Act 1968.

(2) In this Act, except where the context otherwise requires, "the Board" means the Commissioners of Inland Revenue.

(3) Part I of this Act (except sections 5, 8 and 9) shall be construed as one with the Customs and Excise Act 1952.

Citation, interpretation, construction, extent and repeals.
1952 c. 44.

(4) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts and, so far as it relates to corporation tax shall be construed as one with the Corporation Tax Acts.

(5) Parts II and III of this Act so far as they relate to chargeable gains shall be construed as one with Part III of the Finance Act 1965.

1965 c. 25.

(6) Part III of this Act so far as it relates to estate duty shall be construed as one with the Finance Act 1894.

1894 c. 33.

(7) This Act, so far as it relates to the Sugar Act 1956, shall extend to the Isle of Man.

1956 c. 48.

(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 or applied by or under any other enactment, including this Act.

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(9) Except as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(10) The enactments mentioned in Schedule 20 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision in relation thereto made at the end of any Part of that Schedule.

SCHEDULES

SCHEDULE 1

Section 1(1).

SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

TABLE 1: SPIRITS OTHER THAN IMPORTED PERFUMED SPIRITS

| Description of Spirits | Excise rate | Customs rates | | |
|--|-------------|---------------|--------------|-------------|
| | | Full | Commonwealth | Con-vention |
| | £ s. d. | £ s. d. | £ s. d. | £ s. d. |
| 1. British spirits (per proof gallon) | 17 2 9 | — | — | — |
| 2. Imported spirits other than perfumed spirits— | | | | |
| (a) not comprised below in this paragraph (per proof gallon) | — | 17 5 3 | 17 2 9 | 17 2 9 |
| (b) liqueurs, cordials, mixtures and other preparations in bottle, entered in such manner as to indicate that the strength is not to be tested (per gallon) | — | 23 6 0 | 23 2 6 | 23 2 6 |

each of the above rates of duty being, in the case of spirits not warehoused or warehoused for less than 3 years, increased by 1s. 6d. per proof gallon or, for spirits within paragraph 2(b) of this table, by 2s. 0d. per gallon.

SCHEDULE 2

Section 1(1).

WINE (RATES OF CUSTOMS DUTIES)

| Description of wine | Rates of duty (per gallon) | |
|---|----------------------------|--------------|
| | Full | Commonwealth |
| | £ s. d. | £ s. d. |
| Light wine:— | | |
| Still— | | |
| not in bottle | 1 3 3 | 1 1 3 |
| in bottle | 1 5 9 | 1 2 9 |
| Sparkling | 1 15 9 | 1 13 9 |
| Other wine:— | | |
| Still— | | |
| not in bottle | 2 5 3 | 1 15 3 |
| in bottle | 2 7 9 | 1 16 9 |
| Sparkling | 2 17 9 | 2 7 9 |
| together, in the case of wine exceeding 42 degrees proof spirit, with an addition for each additional degree or fraction of a degree of ... | 3 9 | 2 11 |

For the purposes of this Schedule, "light wine" means wine not exceeding 25 degrees or, in the case of wine qualifying for Commonwealth preference, 27 degrees of proof spirit.

Section 1(1).

SCHEDULE 3

BRITISH WINE (RATES OF EXCISE DUTIES)

| Description of British wine | Rates of duty (per gallon) | | |
|-----------------------------|-------------------------------|----|----|
| | £ | s. | d. |
| Light British wine:— | | | |
| Still | 1 | 0 | 9 |
| Sparkling | 1 | 6 | 9 |
| Other British wine:— | | | |
| Still | 1 | 5 | 9 |
| Sparkling | 1 | 11 | 9 |

For the purposes of this Schedule, "light British wine" means British wine not exceeding 27 degrees of proof spirit.

Section 4(3).

SCHEDULE 4

AMOUNT OF GAMING LICENCE DUTY IN RESPECT OF PREMISES

TABLE

| Description of premises | Amount of duty | |
|---|---------------------------------|--------------------------------|
| | On licence for bingo only | On licence for all games |
| 1. Premises other than— (a) premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £1,000; (b) premises consisting of or comprised in a vessel. | £ 125 | £ 750 |
| 2. Premises— (a) which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £1,000 but not exceeding £1,500; or (b) which consist of or are comprised in a vessel. | 1,500 | 7,500 |
| 3. Premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £1,500 but not exceeding £2,250. | 2,000 | 15,000 |
| 4. Premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £2,250 but not exceeding £3,000. | 2,000 | 30,000 |
| 5. Premises which for rating purposes constitute or are comprised in a hereditament of a rateable value exceeding £3,000. | 2,000 | 75,000 |

SCHEDULE 5

Section 4(4).

ENFORCEMENT OF DUTIES RELATING TO BETTING OR GAMING

Protection of officers

1. Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector given in connection with the enforcement of the enactments relating to the general betting duty or the duty on gaming licences or on gaming machine licences and, apart from the provisions of this paragraph, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, he shall not be guilty of that offence.

Keeping by bookmaker of record of authorised agents

2.—(1) The provisions of this paragraph shall apply to a bookmaker at any time when any person is for the time being, or has at any time during the immediately preceding two months been, authorised by that bookmaker to act as his agent for receiving or negotiating bets or otherwise conducting betting operations, other than such bets or operations as involve liability only to the pool betting duty.

(2) The bookmaker shall maintain at any of his premises to which bets received by any such person as aforesaid as the bookmaker's agent are or were transmitted, or, if in the case of any such premises the Commissioners think fit, at such other place as the Commissioners may allow, a record in such form and containing such particulars as the Commissioners may direct in respect of any such person who is for the time being, and any such person who has at any time during the said two months been but is no longer, authorised as aforesaid, being in either case a person by or on whose behalf bets received as aforesaid are or were transmitted to those premises.

(3) A bookmaker shall not be guilty of contravening or failing to comply with the provisions of sub-paragraph (2) of this paragraph by reason of a failure to make an entry or alteration in the said record if that entry or alteration is made before six o'clock in the evening of the day after that on which the happening which necessitated the entry or alteration took place.

(4) Paragraph 2(2)(b) of Schedule 3 to the Finance Act 1966 (under 1966 c. 18. which a bookmaker is required to notify the Commissioners of the names and addresses of any persons acting as his agent as mentioned in sub-paragraph (1) of this paragraph) shall cease to have effect.

Form in which books, etc., are to be kept

3. The books, records and accounts kept in pursuance of paragraph 3(a) of Schedule 1 to the Betting Duties Act 1963 by the person for 1963 c. 3. the time being carrying on a general betting business or pool betting business shall be kept in such form as the Commissioners may direct.

SCH. 5

Power for officers to remain on premises

4. Where an officer has entered on any premises, being premises used for the purposes of a general betting business on which the person carrying on that business is required by paragraph 3(c) of the said Schedule 1 to permit the officer to enter, that person shall permit that officer to remain on those premises at any time while those premises are being used, or when that officer has reasonable cause to believe that those premises are likely to be used, for the conduct of betting operations.

Penalties

5. Paragraphs 4 to 6 of the said Schedule 1 shall apply to a contravention of or failure to comply with any of the provisions of paragraphs 2 to 4 of this Schedule as they apply to a contravention of or failure to comply with any of the provisions of paragraph 2 or 3 of that Schedule.

Interpretation

6. In this Schedule, the following expressions have the following meanings respectively, that is to say—

1963 c. 2.

“bookmaker” has the same meaning as for the purposes of the Betting, Gaming and Lotteries Act 1963;

“Collector” means a Collector of Customs and Excise;

“general betting business” and “pool betting business” mean a business which involves or may involve any sums becoming payable by the person carrying on that business by way of the general betting duty or, as the case may be, by way of the pool betting duty.

Section 5.

SCHEDULE 6

AMENDMENTS TO PART I OF SCHEDULE 1 TO
PURCHASE TAX ACT 1963

1963 c. 9.

1. For any reference to 11% or 16½% there shall be substituted a reference to 12½% or, as the case may be, 20%.

2. Except in the following places, namely, Groups 1, 2, 4, 8, 9, 16 and 17, paragraph (c) of Group 19, Groups 22, 24 and 25, paragraph (a) of Group 26, Group 29, paragraphs (a) and (b) of Group 30, and Groups 31 and 32, for any reference to 27½% there shall be substituted a reference to 33½%.

3. In the following places namely, paragraph (b) of Group 1, paragraph (b) of Group 2, paragraphs (a) and (b) of Group 4, paragraph (a) of Group 8, paragraph (b)(i) of Group 9, paragraph (b) of Group 16, paragraph (c) of Group 19, Groups 22 and 25, paragraph (a) of Group 26, Group 29 and paragraphs (a) and (b) of Group 30, for any reference to 27½% there shall be substituted a reference to 50%.

4. In Group 14, paragraph (2) of the exemptions shall be omitted.

5. In Group 17, for the words "Articles not comprised below in this Group 27½%" there shall be substituted the words—

- "(a) Articles not comprised below in this Group ... 33½%
 (b) Articles not comprised below in this Group which are made wholly or partly of gold, silver or other precious metal (not including base metal which is coated or plated with precious metal)." 50%

6. After Group 19 there shall be inserted the following:—

"GROUP 19A

- (a) Instruments, whether or not complete, which are, or if complete would be, suitable for the reproduction of sound recorded on magnetic tapes or on other recording material, whether or not those instruments are, or if complete would be, suitable also for so recording sound, and parts thereof and accessories thereto. 33½%
 (b) Sound records on magnetic tape or on other recording material, other than records of a kind not produced in quantity for general sale. 50%
 (c) Containers (not comprised in any other Group) for records falling within paragraph (b) above. 50%

Not chargeable under this Group

1. Tape recorders and reproducers suitable only for scientific or industrial use, and parts and accessories suitable only for use therewith.

2. Instruments suitable only as office appliances for the recording or reproduction of speech, and parts and accessories suitable only for use therewith.

Exempt

Sound records for the reproduction of speech, specially adapted for the use of the blind; and instruments specially designed for the reproduction of sound from such records."

7. For Group 24 there shall be substituted the following:—

"GROUP 24

- (a) Photographic cameras and photographic enlargers, lenses and other parts of and accessories to photographic cameras and photographic enlargers. 50%
 (b) Cinematograph projectors, filmstrip and slide projectors, and parts thereof and accessories thereto; projection screens not exceeding 35 square feet in area; and slide viewers and slide containers, except viewers or containers for use with slides exceeding 3 inches in width. 50%
 (c) Unexposed sensitized photographic paper, cloth, plates and film. 50%

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Exempt

(1) Cinematograph cameras and cinematograph projectors for film of standard width, and parts and accessories suitable only for use therewith.

(2) Cameras, enlargers, cinematograph and filmstrip projectors, and parts thereof, and accessories thereto, being articles suitable only for industrial, scientific or military use.

(3) Epidiascopes, projectors for use with slides exceeding 3 inches in width, and parts and accessories suitable only for use therewith.

(4) Photographic paper, cloth, plates and film, the following:—

(i) cinematograph film of standard width;

(ii) X-ray plates, film and paper;

(iii) ferro-prussiate and ferro-gallic paper and cloth;

(iv) dye-line paper, cloth and film;

(v) document base paper, transparent tracing paper base and tracing cloth.”

8. In Group 30, in paragraph (a), for the words “comprised in Group 2” there shall be substituted the words “comprised below or in any other Group”.

9. For Group 31 there shall be substituted the following:—

“GROUP 31

comprising Toilet requisites, except face cloths and towels.

(a) Brushes (other than toothbrushes), combs, 33½%
scissors, nippers, knives, razors, razor blades,
razor strops, razor sharpeners, dry shavers and
dry shaver heads, mirrors, sponges, dental sticks
and toothpicks.

(b) Other articles not comprised below in this 50%
Group.

Exempt

Toothbrushes; toilet paper.”

10. For Group 32, there shall be substituted the following:—

“GROUP 32

comprising Perfumery; and toilet preparations, whether medicated or not, including cosmetics.

(a) Perfumery 50%

(b) Soap made up for sale as toilet soap; soap 33½%
substitutes made up for sale as substitutes for
toilet soap; baby dusting powders; shaving
creams; shampoos; dentifrices; eye lotions,
mouth washes and antiseptics; calamine lotion
and similar alleviating preparations, unperfumed.

(c) Other articles 50%”

SCHEDULE 7

Section 8.

VEHICLES EXCISE DUTY

PART I

RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF SCHEDULE 1 TO ACT OF 1962

| Description of vehicle | Rate of duty | | |
|---|--------------|----|----|
| | £ | s. | d. |
| 1. Bicycles and tricycles of which the cylinder capacity of the engine does not exceed 150 cubic centimetres; electrically propelled bicycles; electrically propelled tricycles which do not exceed 165 pounds in weight unladen | 2 | 10 | 0 |
| 2. Bicycles of which the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres; tricycles (other than those in the foregoing paragraph) and vehicles (other than mowing machines) with more than three wheels, being tricycles and vehicles neither constructed nor adapted for use nor used for the carriage of a driver or passenger | 5 | 0 | 0 |
| 3. Bicycles and tricycles not in the foregoing paragraphs | 10 | 0 | 0 |

PART II

RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF SCHEDULE 3 TO ACT OF 1962

| 1. Description of vehicle | Weight unladen of vehicle | | Rate of Duty | |
|---|---------------------------|---------------------|---------------|--|
| | 2. Exceeding | 3. Not Exceeding | 4. Initial | 5. Additional for each ton or part of a ton in excess of the weight in column 2 |
| | | | £ s. d. | £ s. d. |
| 1. Agricultural machines; digging machines; mobile cranes; works trucks; mowing machines. | — | — | 5 0 0 | — |
| 2. Haulage vehicles, being showmen's vehicles. | — | 7½ tons | 47 0 0 | — |
| | 7½ tons | 8 tons | 56 5 0 | — |
| | 8 tons | 10 tons | 65 10 0 | — |
| | 10 tons | — | 65 10 0 | 9 10 0 |
| 3. Haulage vehicles, not being showmen's vehicles. | — | 2 tons | 60 0 0 | — |
| | 2 tons | 4 tons | 108 0 0 | — |
| | 4 tons | 6 tons | 148 10 0 | — |
| | 6 tons | 7½ tons | 189 0 0 | — |
| | 7½ tons | 8 tons | 229 10 0 | — |
| | 8 tons | — | 229 10 0 | 40 10 0 |

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PART III

RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF
SCHEDULE 4 TO ACT OF 1962

TABLE A

General Rates of Duty

| 1. Description of vehicle | Weight unladen of vehicle | | Rate of Duty | |
|--|---------------------------|----------------------|--------------------|--|
| | 2. Exceeding | 3. Not Exceeding | 4. Initial | 5. Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 2 |
| 1. Farmers' goods vehicles. | — | 12 cwt. | £ s. d. 17 10 0 | £ s. d. — |
| | 12 cwt. | 16 cwt. | 19 5 0 | — |
| | 16 cwt. | 1 ton | 21 0 0 | — |
| | 1 ton | 1 $\frac{1}{4}$ tons | 22 15 0 | — |
| | 1 $\frac{1}{4}$ tons | 2 $\frac{1}{4}$ tons | 22 15 0 | 2 0 0 |
| | 2 $\frac{1}{4}$ tons | 4 $\frac{1}{4}$ tons | 32 15 0 | 2 10 0 |
| | 4 $\frac{1}{4}$ tons | 5 $\frac{1}{2}$ tons | 50 5 0 | 1 0 0 |
| | 5 $\frac{1}{2}$ tons | 8 $\frac{1}{2}$ tons | 56 5 0 | 1 5 0 |
| | 8 $\frac{1}{2}$ tons | — | 70 0 0 | 1 0 0 |
| 2. Showmen's goods vehicles. | — | 12 cwt. | 17 10 0 | — |
| | 12 cwt. | 16 cwt. | 19 5 0 | — |
| | 16 cwt. | 1 ton | 21 0 0 | — |
| | 1 ton | 3 tons | 21 0 0 | 2 0 0 |
| | 3 tons | 4 tons | 37 0 0 | 2 5 0 |
| | 4 tons | 5 tons | 46 0 0 | 2 0 0 |
| | 5 tons | 6 tons | 54 0 0 | 1 15 0 |
| 6 tons | — | 61 0 0 | 2 0 0 | |
| 3. Electrically propelled goods vehicles (other than farmers' goods vehicles or showmen's goods vehicles); tower wagons. | — | 12 cwt. | 24 0 0 | — |
| | 12 cwt. | 16 cwt. | 26 5 0 | — |
| | 16 cwt. | 1 ton | 29 10 0 | — |
| | 1 ton | 6 tons | 29 10 0 | 3 0 0 |
| | 6 tons | 7 tons | 89 10 0 | 2 10 0 |
| | 7 tons | 8 $\frac{1}{2}$ tons | 99 10 0 | 2 15 0 |
| | 8 $\frac{1}{2}$ tons | — | 113 5 0 | 3 0 0 |
| 4. Goods vehicles not included in any of the foregoing provisions of this Part of this Schedule. | — | 12 cwt. | 24 0 0 | — |
| | 12 cwt. | 16 cwt. | 30 0 0 | — |
| | 16 cwt. | 1 ton | 36 10 0 | — |
| | 1 ton | 1 $\frac{1}{2}$ tons | 36 10 0 | 6 10 0 |
| | 1 $\frac{1}{2}$ tons | 2 tons | 49 10 0 | 6 15 0 |
| | 2 tons | 3 tons | 63 0 0 | 7 10 0 |
| | 3 tons | 4 tons | 93 0 0 | 10 10 0 |
| | 4 tons | — | 135 0 0 | 13 10 0 |

TABLE B

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Rates of Duty on Goods Vehicles used for Drawing Trailers

| 1. Description of vehicle | Weight unladen of vehicle | | 4. Rate of Duty |
|--|---------------------------|------------------------|-----------------------|
| | 2. Exceeding | 3. Not Exceeding | |
| 1. Showmen's goods vehicles | — | — | £ s. d. 17 10 0 |
| 2. Electrically propelled goods vehicles (other than farmers' goods vehicles and showmen's goods vehicles); tower wagons. | — | 1½ tons | 14 0 0 |
| | 1½ tons 3 tons | 3 tons — | 24 0 0 27 0 0 |
| 3. Other goods vehicles | — | 1½ tons | 14 0 0 |
| | 1½ tons | 2½ tons | 24 0 0 |
| | 2½ tons | 4 tons | 40 0 0 |
| | 4 tons | — | 54 0 0 |

PART IV

RATES OF DUTY SUBSTITUTED FOR RATES IN PART II OF
SCHEDULE 5 TO ACT OF 1962

| Description of vehicle | Rate of Duty |
|--|--------------|
| | £ s. d. |
| 1. Electrically propelled vehicles; vehicles not exceeding seven horse-power, if registered under the Roads Act 1920 for the first time before 1st January 1947 | 18 0 0 |
| 2. Vehicles not included above | 25 0 0 |

SCHEDULE 8

Section 15.

AGGREGATION OF INFANTS' INVESTMENT, ETC. INCOME

General rules about aggregation

1.—(1) Subject to the provisions of this Schedule, income to which section 15(1) of this Act applies shall be treated as follows—

- (a) so far as it is income for a year of assessment or part of a year of assessment during which both parents of the infant are alive, and are married to and living with each other, as income for that year of the father ;
- (b) so far as it is income for a year or part during which both parents are alive, but are either not married to each other or not living with each other, as income for that year of the father or, for any period during which the mother has actual custody of the infant, as income for that year of the mother ; and

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(c) so far as it is income for a year or part during which one only of the parents is alive, as income for the year of that parent.

(2) So far as any income to which the said section 15(1) applies is income for a year of assessment, or part of a year of assessment, of an infant who is illegitimate and has not been adopted, subparagraph (1) above shall not apply to the income, but it shall be treated instead as income for that year of the mother, or, for any period during which the father has actual custody of the infant, as income for that year of the father.

(3) For the purposes of this paragraph an infant's parents are to be treated as living with each other unless they are separated under an order of a court of competent jurisdiction, or by deed of separation, or are in fact separated in such circumstances that the separation is likely to be permanent.

(4) Where a parent appeals against any assessment or decision on a claim on the grounds that an infant was not, or was, in his or her actual custody for any period, or was or was not for any period in the actual custody of the other parent, the other parent shall be entitled to appear and be heard on that question by the Commissioners hearing the appeal; and, as respects that question—

(a) if the other parent does so appear, the determination of the Commissioners shall for the purposes of income tax be final and conclusive against him or her, save that he or she shall have the same right as the appellant to require the statement of a case for the opinion of the High Court, and

(b) the determination of the Commissioners shall also be final and conclusive against the other parent if he or she fails without reasonable cause to appear.

2. Income of an infant falling to be treated as income of a parent by virtue of the provisions of this Schedule shall be so treated for all income tax purposes, or for the purposes of income tax other than surtax, or for the purposes of surtax only, according to the purposes for which it would have constituted income of the infant but for those provisions.

Exclusion of aggregation where infant in legal custody of third party

3. Paragraph 1 above shall not apply to any income so far as it is income for a year of assessment or part of a year of assessment during which the infant was in law in the custody of a person or persons other than a parent, and was not in the actual custody of a parent.

Special rules for non-residents

4.—(1) Where, in the case of any income falling within paragraph 1(1)(a) above, one of the infant's parents is, and one is not, resident for the year in the United Kingdom, the said paragraph 1(1)(a) shall have effect in relation thereto as if, instead of specifying the infant's father, it specified the parent resident for the year in the United Kingdom if the infant is so resident, and the other parent if the infant is not so resident.

(2) Nothing in the preceding provisions of this Schedule shall have effect so as to treat income of an infant resident in the United Kingdom for any year of assessment as income of a parent not so resident for that year, or income of an infant not so resident for any year as income of a parent so resident for that year.

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Provisions as to certain payments involving tax reliefs

5.—(1) Where income of an infant for any period is treated by virtue of this Schedule as income of a parent, and the infant has made payments of either of the following descriptions—

- (a) annual payments in respect of which a deduction is permitted in computing for that period total income for the purposes of income tax or surtax, or
- (b) payments in that period of interest in respect of which income tax at the standard rate is repayable,

the said payments shall, to the extent of that income, be treated as having been made thereout by the parent instead of by the infant, and in the order in which they are described above.

(2) Where income of an infant for any period is so treated, and the infant has during that period made payments qualifying for relief under section 219 of the Income Tax Act 1952 (premiums under certain life policies and annuity contracts), the deductions from tax to which he would apart from this sub-paragraph be entitled by reason of those payments shall, to the extent that the payments could have been made out of the income so treated (or, where sub-paragraph (1) above has effect, out of that income reduced by the payments falling within that sub-paragraph), be made instead from the tax with which the parent is chargeable. 1952 c. 10.

Right of parent to recover tax on infant's income

6.—(1) Where income of an infant is treated by virtue of this Schedule as income of a parent for any year of assessment, the parent shall be entitled to recover from the infant an amount equal to that by which the tax chargeable on and payable by him or her for the year exceeds that which would have been so chargeable and payable if the income had not been so treated:

Provided that, so far as the excess is attributable to trust income which has not been distributed, the right conferred by this paragraph shall be exercisable against that income instead of against the infant.

(2) A parent may require from the Board a certificate specifying in relation to any income the amount of tax which he or she is entitled to recover under this paragraph from trustees, and any such certificate shall be conclusive evidence of that amount.

Repayments by parents

7. Where income of an infant is treated as income of a parent by virtue of this Schedule, and, by reason thereof, the parent obtains in respect of any allowance or relief a repayment of tax in excess

- SCH. 8 of that to which he would have been entitled if the income had not been so treated, the parent shall pay an amount equal to the excess to the infant, or, if the income arose under a trust, to the trustees.

Loss relief

1952 c. 10. 8.—(1) A claim for relief under section 341 of the Income Tax Act 1952 (set off of trade etc. losses against general income) may require that the relief be given without any reference to income treated by virtue of this Schedule as income of the person sustaining the loss or of that person's spouse.

1953 c. 34. (2) Where income so treated is not excluded by virtue of sub-paragraph (1) above, it shall be treated for the purposes of section 15(1) of the Finance Act 1953 (relief to be given by treating loss as reducing claimant's income first, and then income of claimant's spouse) as distinct from that of the claimant, and as if referred to therein after that of the spouse.

Duty of trustees to give information

9. A trustee shall, on being so required in writing by a parent of any beneficiary under the trust, give to the parent details of the trust income arising to the beneficiary for any year of assessment during, or for any part of which, the beneficiary is an infant.

Adopted children

10. In this Schedule "parent" means, in the case of an infant who has been adopted, a parent by adoption, and references to the father and the mother of an infant shall be construed accordingly; and references in this Schedule to adoption include references to adoption under the law of any territory outside the United Kingdom.

Section 16.

SCHEDULE 9

LIFE POLICIES, LIFE ANNUITY CONTRACTS AND
CAPITAL REDEMPTION POLICIES

PART I

LIFE POLICIES: QUALIFICATION FOR RELIEF UNDER S.219
OF THE INCOME TAX ACT 1952

General rules applicable to whole life and term assurances

1.—(1) Subject to the following provisions of this Part of this Schedule, if a policy secures a capital sum which is payable only on death, or one payable either on death or on earlier disability, it is a qualifying policy if—

- (a) it satisfies the conditions appropriate to it under sub-paragraphs (2) to (4) below, and
- (b) except to the extent permitted by sub-paragraph (5) below, it does not secure any other benefits.

(2) If the capital sum referred to in sub-paragraph (1) above is payable whenever the event in question happens, or if it happens at any time during the life of a specified person—

(a) the premiums under the policy must be payable at yearly or shorter intervals, and either—

(i) until the happening of the event, or, as the case may require, until the happening of the event or the earlier death of the specified person, or

(ii) until the time referred to in sub-paragraph (i) above or the earlier expiry of a specified period ending not earlier than ten years after the making of the insurance, and

(b) the total premiums payable in any period of twelve months must not exceed—

(i) twice the amount of the total premiums payable in any other such period, or

(ii) one-eighth of the total premiums which would be payable if the policy were to continue in force for a period of ten years from the making of the insurance, or, in a case falling within paragraph (a)(ii) above, until the end of the period therein referred to.

(3) If the capital sum referred to in sub-paragraph (1) above is payable only if the event in question happens before the expiry of a specified term ending more than ten years after the making of the insurance, or only if it happens both before the expiry of such a term and during the life of a specified person—

(a) the premiums under the policy must be payable at yearly or shorter intervals, and either—

(i) until the happening of the event or the earlier expiry of the said term, or, as the case may require, until the happening of the event or, if earlier, the expiry of the term or the death of the specified person, or

(ii) as in sub-paragraph (i) above, but with the substitution for references to the term of references to a specified shorter period, being one ending not earlier than ten years after the making of the insurance or, if sooner, the expiry of three-quarters of the said term, and

(b) the total premiums payable in any period of twelve months must not exceed—

(i) twice the amount of the total premiums payable in any other such period, or

(ii) one-eighth of the total premiums which would be payable if the policy were to continue in force for the term referred to in paragraph (a)(i) above, or, as the case may require, for the shorter period referred to in paragraph (a)(ii) above.

(4) If the capital sum referred to in sub-paragraph (1) above is payable only if the event in question happens before the expiry

SCH. 9 of a specified term ending not more than ten years after the making of the insurance, or only if it happens both before the expiry of such a term and during the life of a specified person, the policy must provide that any payment made by reason of its surrender during that period is not to exceed the total premiums previously paid thereunder.

(5) Notwithstanding sub-paragraph (1)(b) above, if a policy secures a capital sum payable only on death, it may also secure benefits (including benefits of a capital nature) to be provided in the event of a person's disability; and no policy is to be regarded for the purposes of that provision as securing other benefits by reason only of the fact that it confers a right to participate in profits, that it carries a guaranteed surrender value, that it gives an option to receive payments by way of annuity, or that it makes provision for the waiver of premiums by reason of a person's disability or for the effecting of a further insurance or insurances without the production of evidence of insurability.

(6) In applying sub-paragraph (2) or (3) above to any policy—

- (a) no account shall be taken of any provision for the waiver of premiums by reason of a person's disability, and
- (b) if the term of the policy runs from a date earlier, but not more than three months earlier, than the making of the insurance, the insurance shall be treated as having been made on that date, and any premium paid in respect of the period before the making of the insurance, or in respect of that period and a subsequent period, as having been payable on that date.

(7) References in this paragraph to a capital sum payable on any event include references to any capital sum, or series of capital sums, payable by reason thereof; and a policy secures a capital sum payable either on death or on disability notwithstanding that the amount payable may vary with the event.

General rules applicable to endowment assurances

2.—(1) Subject to the following provisions of this Part of this Schedule, a policy which secures a capital sum payable either on survival for a specified term or on earlier death, or earlier death or disability, including a policy securing the sum on death only if occurring after the attainment of a specified age not exceeding sixteen, is a qualifying policy if it satisfies the following conditions—

- (a) the term must be one ending not earlier than ten years after the making of the insurance,
- (b) premiums must be payable under the policy at yearly or shorter intervals, and—
 - (i) until the happening of the event in question, or
 - (ii) until the happening of that event, or the earlier expiry of a specified period shorter than the term but also ending not earlier than ten years after the making of the insurance, or

- (iii) if the policy is to lapse on the death of a specified person, until one of those times or the policy's earlier lapse,
- (c) the total premiums payable under the policy in any period of twelve months must not exceed—
- (i) twice the amount of the total premiums payable in any other such period, or
 - (ii) one-eighth of the total premiums which would be payable if the policy were to run for the specified term,
- (d) the policy—
- (i) must guarantee that the capital sum payable on death, or on death occurring after the attainment of a specified age not exceeding sixteen, will, whenever that event may happen, be equal to three-quarters at least of the total premiums which would be payable if the policy were to run for that term, disregarding any amounts included in those premiums by reason of their being payable otherwise than annually, and
 - (ii) if it is a policy which does not secure a capital sum in the event of death before the attainment of a specified age not exceeding sixteen, must not provide for the payment in that event of an amount exceeding the total premiums previously paid thereunder, and
- (e) the policy must not secure the provision (except by surrender) at any time before the happening of the event in question of any benefit of a capital nature other than a payment falling within paragraph (d)(ii) above, or benefits attributable to a right to participate in profits or arising by reason of a person's disability.

(2) Sub-paragraphs (6) and (7) of paragraph 1 above shall, with any necessary modifications, have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.

(3) For the purposes of sub-paragraph (1)(d)(i) above, ten per cent. of the premiums payable under any policy issued in the course of an industrial assurance business as defined in section 1(2) of the Industrial Assurance Act 1923 shall be treated as attributable to 1923 c. 8. the fact that they are not paid annually.

Special types of policy

(i) Friendly Society policies

3. A policy issued by any friendly society, or branch of a friendly society, in the course of its tax exempt life or endowment business, as defined in section 29(9) of the Finance Act 1966, is a qualifying policy notwithstanding that it does not comply with the conditions specified in paragraph 1 or 2 above. 1966 c. 18.

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(ii) *Industrial Assurance policies*

1923 c. 8.

4.—(1) A policy issued in the course of an industrial assurance business, as defined in section 1(2) of the Industrial Assurance Act 1923, and not constituting a qualifying policy by virtue of paragraph 1 or 2 above, is nevertheless a qualifying policy if—

- (a) the sums guaranteed by the policy, together with those guaranteed at the time the assurance is made by all other policies issued in the course of such a business to the same person and not constituting qualifying policies apart from this paragraph, do not exceed £1,000,
- (b) it satisfies the conditions with respect to premiums specified in paragraph 1(2) above,
- (c) except by reason of death or surrender, no capital sum other than one falling within paragraph (d) below can become payable under the policy earlier than ten years after the making of the assurance, and
- (d) where the policy provides for the making of a series of payments during its term—
 - (i) the first such payment is due not earlier than five years after the making of the assurance, and the others, except the final payment, at intervals of not less than five years, and
 - (ii) the amount of any payment, other than the final payment, does not exceed four-fifths of the premiums paid in the interval before its payment, and
 - (iii) if the first such payment is due earlier than ten years after the making of the assurance, or any other such payment except the last is due earlier than ten years after the preceding one, the sums guaranteed by the policy, together with the other sums referred to in paragraph (a) above so far as guaranteed by policies the payments under which also fall within this sub-paragraph, do not exceed £500.

(2) For the purpose of this paragraph, the sums guaranteed by a policy do not include any bonuses, or, in the case of a policy providing for a series of payments during its term, any of those payments except the first, or any sum payable on death during the term by reference to one or more of those payments except so far as that sum is referable to the first such payment.

(iii) *Family income policies and mortgage protection policies*

5.—(1) The following provisions apply to any policy which is not a qualifying policy apart from those provisions, and the benefits secured by which consist of or include the payment on or after a person's death of—

- (a) one capital sum of an amount which does not vary according to the date of death, plus a series of capital sums payable if the death occurs during a specified period, or

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- (b) a capital sum, the amount of which is less if the death occurs in a later part of a specified period than if it occurs in an earlier part of that period.
- (2) A policy falling within sub-paragraph (1)(a) above is a qualifying policy if—
- (a) it would be one if it did not secure the series of capital sums there referred to, and the premiums payable under the policy were such as would be chargeable if that were in fact the case, and
- (b) it would also be one if it secured only that series of sums, and the premiums thereunder were the balance of those actually so payable.
- (3) A policy falling within sub-paragraph (1)(b) above is a qualifying policy if—
- (a) it would be one if the amount of the capital sum there referred to were equal throughout the period to its smallest amount, and the premiums payable under the policy were such as would be chargeable if that were in fact the case, and
- (b) it would also be one if it secured only that capital sum so far as it from time to time exceeds its smallest amount, and the premiums payable thereunder were the balance of those actually so payable.

Other special provisions

(i) *Exceptional mortality risk*

6. For the purpose of determining whether any policy is a qualifying policy, there shall be disregarded—
- (a) so much of any premium thereunder as is charged on the grounds that an exceptional risk of death is involved, and
- (b) any provision under which, on those grounds, any sum may become chargeable as a debt against the capital sum guaranteed by the policy on death.

(ii) *Connected policies*

7. Where the terms of any policy provide that it is to continue in force only so long as another policy does so, neither policy is a qualifying policy unless, if they had constituted together a single policy issued in respect of an insurance made at the time of the insurance in respect of which the first-mentioned policy was issued, that single policy would have been a qualifying policy.

(iii) *Premiums paid out of sums due under previous policies*

8.—(1) Where, in the case of a policy under which a single premium only is payable, liability for the payment of that premium is discharged in accordance with sub-paragraph (2) below, the policy is a qualifying policy notwithstanding anything in paragraph 1(2) or 1(3) above, or in paragraph (b) or (c) of paragraph 2(1); and where, in the case of any other policy, liability for the payment of

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the first premium thereunder, or of any part of that premium, is so discharged, the premium or part shall be disregarded for the purposes of paragraph 1(2)(b) and 1(3)(b) above, and of paragraph (c) of paragraph 2(1).

(2) Liability for the payment of a premium is discharged in accordance with this sub-paragraph if it is discharged by the retention by the company with whom the insurance is made of the whole or a part of any sum which has become payable on the maturity of, or on the surrender more than ten years after its issue of the rights conferred by, a policy—

- (a) previously issued by the company to the person making the insurance, or, if it is made by trustees, to them or any predecessors in office, or
- (b) issued by the company when the person making the insurance was an infant, and securing a capital sum payable either on a specified date falling not more than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age,

being, unless it is a policy falling within paragraph (b) above and the premium in question is a first premium only, a policy which was itself a qualifying policy, or which would have been a qualifying policy if issued in respect of an insurance made after 19th March 1968.

(iv) *Substitutions, variations &c.*

9.—(1) Where one policy (hereafter referred to as “the new policy”) is issued in substitution for, or on the maturity of and in consequence of an option conferred by, another policy (hereafter referred to as “the old policy”) the question whether the new policy is a qualifying policy shall, to the extent provided by the rules in sub-paragraph (2) below, be determined by reference to both policies.

(2) The said rules (for the purposes of which, the question whether the old policy was a qualifying policy shall be determined in accordance with this Part of this Schedule, whatever the date of the insurance in respect of which it was issued) are as follows—

- (a) if the new policy would apart from this paragraph be a qualifying policy, but the old policy was not, the new policy is not a qualifying policy unless the person making the insurance in respect of which it is issued was an infant when the old policy was issued, and the old policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age ;
- (b) if the new policy would apart from this paragraph be a qualifying policy, and the old policy was also a qualifying policy, the new policy is a qualifying policy unless—
 - (i) it takes effect before the expiry of ten years from the making of the insurance in respect of which the old policy was issued, and

- (ii) the highest total of premiums payable thereunder for any period of twelve months expiring before that time is less than one-half of the highest total paid for any period of twelve months under the old policy, or under any related policy issued less than ten years before the issue of the new policy ("related policy" meaning any policy in relation to which the old policy was a new policy within the meaning of this paragraph, any policy in relation to which that policy was such a policy, and so on);
- (c) if the new policy would not apart from this paragraph be a qualifying policy, and would fail to be so by reason only of paragraph 1(2) or 1(3) above, or of paragraph (a), (b) or (c) of paragraph 2(1), it is nevertheless a qualifying policy if the old policy was a qualifying policy and—
- (i) the old policy was issued in respect of an insurance made more than ten years before the taking effect of the new policy, and the premiums payable for any period of twelve months under the new policy do not exceed the smallest total paid for any such period under the old policy, or
- (ii) the old policy was issued outside the United Kingdom, and the circumstances are as specified in subparagraph (3) below.

(3) The said circumstances are—

- (a) that the person in respect of whom the new insurance is made became resident in the United Kingdom during the twelve months ending with the date of its issue,
- (b) that the issuing company certify that the new policy is in substitution for the old, and that the old was issued either by a branch or agency of theirs outside the United Kingdom or by a company outside the United Kingdom with whom they have arrangements for the issue of policies in substitution for ones held by persons coming to the United Kingdom, and
- (c) that the new policy confers on the holder benefits which are substantially equivalent to those which he would have enjoyed if the old policy had continued in force.

10.—(1) Subject to the provisions of this paragraph, where the terms of a policy are varied, the question whether the policy after the variation is a qualifying policy shall be determined in accordance with the rules in paragraph 9 above, with references in those rules to the new policy and the old policy construed for that purpose as references respectively to the policy after the variation and the policy before the variation, and with any other necessary modifications.

(2) In applying any of those rules by virtue of this paragraph, the question whether a policy after a variation would be a qualifying policy apart from the rule shall be determined as if any reference in paragraphs 1 to 7 of this Schedule to the making of an insurance,

SCH. 9 or to a policy's term, were a reference to the taking effect of the variation or, as the case may be, to the term of the policy as from the variation.

(3) This paragraph does not apply by reason of—

- (a) any variation which, whether or not of a purely formal character, does not affect the terms of a policy in any significant respect, or
- (b) any variation effected before the end of the year 1968 for the sole purpose of converting into a qualifying policy any policy issued (but not one treated by virtue of section 16(6) of this Act as issued) in respect of an insurance made after 19th March 1968.

PART II

PROVISIONS CHARGING TAX ON GAINS

Meaning of "chargeable event", and computation of gain arising

(i) *Life policies*

11.—(1) Subject to the provisions of this paragraph, in this Part of this Schedule "chargeable event" means, in relation to a policy of life insurance—

- (a) unless it is a policy which falls within sub-paragraph (2) below, any of the following—
 - (i) any death giving rise to benefits under the policy,
 - (ii) the maturity of the policy,
 - (iii) the surrender in whole or in part of the rights conferred by the policy, and
 - (iv) the assignment for money or money's worth of those rights or of any share therein ; and
- (b) if it is a policy falling within sub-paragraph (2) below, any of the above events, but—
 - (i) in the case of death or maturity, only if the policy is converted into a paid-up policy before the expiry of ten years from the making of the insurance, or, if sooner, of three-quarters of the term for which the policy is to run if not ended by death or disability,
 - (ii) in the case of a surrender or assignment, only if it is effected within that time, or the policy has been converted into a paid-up policy within that time.

1952 c 10.

(2) A policy falls within this sub-paragraph if (whether or not the premiums thereunder are eligible for relief under section 219 of the Income Tax Act 1952) it is a qualifying policy within the meaning of Part I of this Schedule.

(3) The maturity of a policy is not a chargeable event in relation thereto if a new policy is issued in consequence of the exercise of an option conferred by the maturing policy unless the person making

the insurance in respect of which the new policy is issued was an infant when the former policy was issued, and the former policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age.

(4) No event is a chargeable event in relation to a policy if the rights conferred by the policy have at any time before the event been assigned for money or money's worth.

(5) No account shall be taken for the purposes of this paragraph of any assignment effected by way of security for a debt, or on the discharge of a debt secured by the rights or share concerned, or of any assignment between spouses living together; and references in sub-paragraph (1) above to the surrender of the rights conferred by a policy do not include references to the surrender of any right to a bonus.

(6) Where sub-paragraph (1)(b) above applies to a policy which has been varied so as to increase the premiums payable thereunder, it shall so apply as if the references in sub-paragraph (i) to the making of the insurance and the term of the policy were references respectively to the taking effect of the variation and the term of the policy as from the variation.

12.—(1) On the happening of a chargeable event in relation to any policy of life insurance, there shall be treated as a gain arising in connection with the policy—

- (a) if the event is a death, the excess (if any) of the surrender value of the policy immediately before the death, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums;
- (b) if the event is the maturity of the policy, or the surrender in whole or in part of the rights thereby conferred, the excess (if any) of the amount or value of the sum payable or other benefits arising by reason of the event, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, or, in the case of a partial surrender, over the same proportion of that amount as is borne by the amount or value of the said sum or other benefits to the amount or value of the sum or other benefits which would have been payable, or would have arisen, if the rights had been wholly surrendered;
- (c) if the event is an assignment—
 - (i) if it is an assignment of all the rights conferred by the policy, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, and
 - (ii) if it is an assignment of a share only in those rights, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant

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capital payments so far as attributable to the share assigned and received by the assignor or by any person at his direction, over the same proportion of the total amount previously paid under the policy by way of premiums as is borne by the amount or value of the consideration to the market value of the rights.

(2) Where, in a case falling within sub-paragraph (1)(b) above, a right to periodical payments arises by reason of the event, there shall be treated as payable by reason thereof an amount equal to the capital value of those payments at the time the right arises.

1965 c. 25.

(3) Where, in a case falling within sub-paragraph (1)(c) above, the assignment is between persons who are connected with each other within the meaning of paragraph 21 of Schedule 7 to the Finance Act 1965, the assignment shall be deemed to have been made for a consideration equal to the market value of the rights or share assigned.

(4) In this paragraph, "relevant capital payments" means, in relation to any policy, any sum or other benefit of a capital nature, other than one attributable to a person's disability, paid or conferred under the policy before the happening of the chargeable event, and any sum paid, or other benefit conferred, by reason of any surrender before that time of a right to a bonus under the policy; and references in this sub-paragraph and (in relation to premiums) in sub-paragraph (1) above to "the policy" include references to any related policy, that is to say, to any policy in relation to which the policy is a new policy within the meaning of paragraph 9 above, any policy in relation to which that policy is such a policy, and so on.

(ii) *Life annuity contracts*

13.—(1) Subject to sub-paragraphs (2) and (3) below, in this Part of this Schedule "chargeable event" means, in relation to any contract for a life annuity, the surrender in whole or in part of the rights conferred by the contract, or the assignment for money or money's worth of those rights or of any share therein.

Where the terms of a contract provide for the payment of a capital sum as an alternative, in whole or in part, to payments by way of annuity, the taking of the capital sum shall be treated for the purposes of this and the next following paragraph as a surrender in whole or in part of the rights conferred by the contract.

(2) An event referred to in sub-paragraph (1) above is not a chargeable event in relation to any contract if the rights conferred by the contract have at any time before the event been assigned for money or money's worth.

(3) Sub-paragraph (5) of paragraph 11 above shall, with any necessary modification, apply for the purposes of this paragraph as it applies for the purposes of the said paragraph 11.

14.—(1) On the happening of a chargeable event in relation to any contract for a life annuity, there shall be treated as a gain arising in connection with the contract—

(a) if the event is the surrender in whole or in part of the rights conferred by the contract, the excess (if any) of the amount payable by reason of the event over—

(i) the total amount previously paid under the contract, whether by way of premiums or as lump sum consideration, reduced, if before the happening of the event one or more payments have been made on account of the annuity, by the capital element in the said payment or payments, as determined in accordance with section 27 of the Finance Act 1956, or

1956 c. 54.

(ii) in the case of a partial surrender, the same proportion of that amount (as so reduced where appropriate) as is borne by the amount payable by reason of the event to the amount which would have been so payable if the rights had been wholly surrendered ;

(b) if the event is the assignment for money or money's worth of the rights conferred by the contract, or of any share therein, the excess (if any) of the amount or value of the consideration over—

(i) the amount specified in sub-paragraph (1)(a)(i) above, or

(ii) if the assignment is of a share only, the same proportion of that amount (reduced as therein mentioned where appropriate) as is borne by the amount or value of the consideration to the market value of the rights.

(2) Sub-paragraph (3) of paragraph 12 above shall apply for the purposes of sub-paragraph (1) above as it applies for the purposes of sub-paragraph (1)(c) of that paragraph.

(iii) *Capital redemption policies*

15.—(1) Subject to sub-paragraph (2) below, in this Part of this Schedule “chargeable event” means, in relation to a capital redemption policy, any of the following—

(i) the maturity of the policy,

(ii) the surrender in whole or in part of the rights conferred by the policy, and

(iii) the assignment for money or money's worth of those rights or of any share therein.

(2) Sub-paragraph (5) of paragraph 11 above shall apply for the purposes of this paragraph as it applies for purposes of the said paragraph 11.

16.—(1) The provisions of paragraph 12 above, except sub-paragraph (3) thereof, shall, so far as appropriate and subject to sub-paragraph (2) below, apply to capital redemption policies as they apply to policies of life insurance.

(2) Where a chargeable event happens in relation to a capital redemption policy which has previously been assigned for money or

SCH. 9 money's worth, the said paragraph 12 shall have effect in relation thereto as if, for the references to the total amount previously paid under the policy by way of premiums, there were substituted references to the amount or value of the consideration given for the last such assignment, plus the total amount of the premiums paid under the policy since that assignment.

Method of charging gain to tax

17.—(1) Where, under the preceding provisions of this Schedule, a gain is to be treated as arising in connection with any policy or contract—

- (a) if, immediately before the happening of the chargeable event in question, the rights conferred by the policy or contract were vested in an individual as beneficial owner, or were held on trusts created by an individual (including trusts arising under section 11 of the Married Women's Property Act 1882, section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880, or section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964) or as security for a debt owed by an individual, the amount of the gain shall be deemed for the purposes of surtax (but not for any other income tax purpose except the furnishing of information) to form part of that individual's total income for the year in which the event happened ;
- (b) if, immediately before the happening of that event, the said rights were in the beneficial ownership of a close company within the meaning of Part IV of the Finance Act 1965, or were held on trusts created, or as security for a debt owed, by such a company, then—
- (i) for the purposes of section 77 of that Act (shortfall in distributions) the company's distributable income (but not its estate or trading income) for the accounting period in which the event happened shall be treated as increased by the amount of the gain, and
- (ii) the amount of the gain shall also be deemed to form part of the company's income for that period for the purposes of section 78 of that Act (surtax apportionments) ;
- (c) if, immediately before the happening of that event, the said rights were vested in personal representatives within the meaning of Part XIX of the Income Tax Act 1952, the amount of the gain shall, as regards surtax, be deemed for the purposes of the said Part XIX to be part of the aggregate income of the estate of the deceased :

Provided that nothing in this sub-paragraph shall apply to any amount which is chargeable to income tax or to corporation tax apart from this sub-paragraph.

(2) Where, immediately before the happening of a chargeable event, the rights conferred by any policy or contract were vested beneficially in two or more persons, or were held on trusts created,

or as security for a debt owed, by two or more persons, paragraphs (a) and (b) of sub-paragraph (1) above shall have effect in relation to each of those persons as if he had been the sole owner, settlor or debtor, but with references to the amount of the gain construed as references to the part of it proportionate to his share in the rights at the time of the event or, as the case may require, when the trusts were created.

(3) References in sub-paragraphs (1) and (2) above to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.

Relief where gain charged directly to surtax

18.—(1) The following provisions of this paragraph shall have effect for the purpose of giving relief, on a claim in that behalf being made by him to the Board, in respect of any increase in an individual's liability to tax which is attributable to one or more amounts being included in his total income for a year of assessment by virtue of paragraph 17(1)(a) above.

(2) Where one amount only is so included, there shall be computed—

(a) the surtax which would be chargeable in respect of the amount if relief under this paragraph were not available and it constituted the highest part of the claimant's total income for the year, and

(b) the surtax (if any) which would be chargeable in respect of the amount if calculated, in accordance with sub-paragraph (3) below, by reference to its appropriate fraction,

and the relief shall consist of a reduction or repayment of tax equal to the difference between the two amounts of surtax so computed, or, if surtax would not be chargeable on a calculation by reference to the appropriate fraction, of a reduction or repayment of the tax equal to the surtax computed under paragraph (a) above.

(3) In sub-paragraph (2) above "appropriate fraction" means, in relation to any amount, such a sum as bears thereto the same proportion as that borne by one to the number of complete years for which the policy or contract has run before the happening of the chargeable event; and the computation required by paragraph (b) of that sub-paragraph shall be made by applying to the amount in question the rate or rates of surtax (if more than one, in corresponding proportions) which would apply if it were reduced to that fraction, treating it, as so reduced, as still constituting the highest part of the claimant's total income for the year, and treating so much of it (if any) as would then not be chargeable to surtax as if it were chargeable thereto at a nil rate.

For the purposes of this sub-paragraph, the number of years for which a policy of life insurance has run before the happening of a chargeable event shall be calculated, where appropriate, from the issue of the earliest related policy, meaning, any policy in relation to which the policy is a new policy within the meaning of paragraph 9 above, any policy in relation to which that policy is such a policy, and so on.

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(4) Where by virtue of the said paragraph 17(1)(a) two or more amounts are included in an individual's total income for any year of assessment, sub-paragraphs (2) and (3) above shall apply as if they together constituted a single amount, but with the appropriate fraction of the whole determined by adding together the appropriate fractions of the individual amounts.

1960 c. 44.

1963 c. 25.

(5) A provision of this paragraph requiring surtax to be calculated as if an amount constituted the highest part of a claimant's total income shall apply notwithstanding any provision of the Income Tax Acts directing any other amount to be treated as the highest part thereof, but, for the purposes of this paragraph, a claimant's total income shall be deemed not to include any amount in respect of which he is chargeable to tax under section 37 of the Finance Act 1960 (payments on retirement or removal from office or employment) or sections 22 to 24 of the Finance Act 1963 (premiums, &c., treated as rent).

(6) For the purposes of any provision of the Income Tax Acts, other than this paragraph or Schedule 6 to the Finance Act 1963, requiring an amount to be treated as the highest part of an individual's income, his income shall be calculated without regard to any amount included therein as mentioned in sub-paragraph (1) above; and where an individual claims relief for any year of assessment under the said Schedule 6 or paragraph 7 of Schedule 4 to the Finance Act 1960, then, in calculating the relief, the claimant's income shall be deemed to include, in respect of any amount which would otherwise be included therein as aforesaid, no greater amount than the appropriate fraction thereof.

1964 c. 37.

(7) Section 9 of the Income Tax Management Act 1964 shall apply to any claim for relief under this paragraph.

Right of individual to recover tax from trustees

19.—(1) Where an amount is included in an individual's income by virtue of paragraph 17(1)(a) above, and the rights or share in question were held immediately before the happening of the chargeable event on trust, the individual shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, an amount equal to that (if any) by which the tax with which he is chargeable for the year of assessment in question, reduced by the amount of any relief available under paragraph 18 above in respect of the amount so included, exceeds the tax with which he would have been chargeable for the year if the said amount had not been so included.

(2) Where, for the purposes of relief under the said paragraph 18, two or more amounts are to be treated as one, the reduction required by sub-paragraph (1) above on account of the relief available in respect of any of them shall consist of a proportionate part of the relief available in respect of their aggregate.

(3) An individual may require the Board to certify any amount recoverable by him by virtue of this paragraph, and the certificate shall be conclusive evidence of the amount.

PART III

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SUPPLEMENTARY PROVISIONS

Duty of insurers, etc. to certify qualifying policies, and to give information about chargeable events

20.—(1) Subject to sub-paragraph (3) below, where a policy of life insurance issued in respect of an insurance made after 19th March 1968 is, in the opinion of the body by whom it is issued, a qualifying policy within the meaning of Part I of this Schedule, it shall be the duty of that body to give to the policy holder a duly authenticated certificate to that effect.

Any such certificate shall be given within three months of the issue of the policy, or, if later, within three months of the passing of this Act, and shall specify the name of the policy holder, the name of the person whose life is assured, the reference number or other means of identification allocated to the policy, the capital sum or sums assured, and the amounts and dates for payment of the premiums.

(2) Subject to the said sub-paragraph (3), where a policy of life insurance is varied after the said 19th March and, in the opinion of the body by whom it was issued, is after the variation a qualifying policy within the meaning of the said Part I, it shall be the duty of that body, within three months of the making of the variation, or, if later, within three months of the passing of this Act, to give to the policy holder a like certificate with respect to the policy after the variation.

(3) Where, in the case of any policy, or any policy after a variation, the total premiums payable in any period of twelve months do not exceed £26, a certificate need be given under sub-paragraph (1) or (2) above only if requested in writing by the policy holder, and, if so requested, shall be given within three months of receipt of the request ; and sub-paragraph (2) above shall not apply by reason of—

- (a) any variation which, whether or not of a purely formal character, does not affect the terms of a policy in any significant respect, or
- (b) any variation of a policy issued in respect of an insurance made on or before 19th March 1968, other than a variation by virtue of which the policy falls, under section 16(6) of this Act, to be treated as issued in respect of an insurance made after that date.

(4) Subject to sub-paragraph (5) below, where a chargeable event within the meaning of Part II of this Schedule has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall, within three months of the event or, if it is a death or an assignment, within three months of their receiving written notification thereof, deliver to the inspector a certificate specifying—

- (a) the name and address of the policy holder,
- (b) the nature of the event, and the date on which it happened,
- (c) as may be required for computing the gain to be treated as arising by virtue of the said Part II—

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- (i) the surrender value of the policy, or the sum payable, or other benefits to be conferred, by the body in question by reason of the event,
 - (ii) the amount or value of any relevant capital payments,
 - (iii) the amounts previously paid under the policy or contract by way of premiums, or otherwise by way of consideration for an annuity, and
 - (iv) the capital element in any payment previously made on account of an annuity, and
- (d) the number of years relevant for computing the appropriate fraction of the gain for the purposes of paragraph 18(3) above.
- (5) Sub-paragraph (4) above shall not apply where—
- (a) the body in question are satisfied that no gain is to be treated as arising by reason of the event, or
 - (b) the amount of the surrender value or sum, or the value of the other benefits, referred to in paragraph (c)(i) of that sub-paragraph, together with the amount or value of any payments within paragraph (c)(ii) thereof, does not exceed £500,

but the inspector may by notice in writing require a like certificate in any such case, and it shall be the duty of the body to deliver the certificate within thirty days of receipt of the notice.

1960 c. 44.

(6) Sections 46 and 47 of the Finance Act 1960 (penalties) shall have effect as if sub-paragraphs (4) and (5) above were included in the third column of Schedule 6 to that Act.

Interpretation

21. In this Schedule “assignment”, in relation to Scotland, means an assignation.

Section 18.

SCHEDULE 10

CASH BASIS ETC.

Allowable deductions

1.—(1) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of subsection (1) of the principal section, there shall be deducted from the amount which, apart from this paragraph, would be chargeable to tax—

- (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade, profession or vocation had not been discontinued, would have been deducted in computing for tax purposes the profits or gains of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits or gains as so computed, and

(b) any allowance under the Capital Allowances Act 1968 to which the person who carried on the trade, profession or vocation was entitled immediately before the discontinuance and to which effect has not been given by way of relief before the discontinuance. SCH. 10
1968 c. 3.

(2) No amount shall be deducted under sub-paragraph (1) above if that amount has been allowed under any other provision of the Income Tax Acts or the Corporation Tax Acts.

(3) No amount shall be deducted more than once under this paragraph, or both under this paragraph and under section 32(4) of the Finance Act 1960 (post-cessation receipts: allowable deductions), 1960 c. 44. and—

- (a) any expense or debit shall be apportioned between a sum chargeable under subsection (1) of the principal section and a sum chargeable under the said section 32 in such manner as may be just,
- (b) as between sums chargeable, whether under subsection (1) of the principal section or the said section 32, for one year of assessment or accounting period, and sums so chargeable for a subsequent year of assessment or accounting period, any deduction in respect of a loss or capital allowance shall be made against sums chargeable for the earlier year of assessment or accounting period,
- (c) subject to paragraph (b) above, as between sums chargeable for any year of assessment or accounting period under subsection (1) of the principal section and sums so chargeable under the said section 32, any deduction in respect of a loss or capital allowance shall be made under this paragraph rather than under the said section 32,

but, in the case of a loss which by virtue of this paragraph or the said section 32(4) is to be allowed after the discontinuance, not so as to authorise its deduction from any sum chargeable for a year of assessment or accounting period preceding that in which the loss is incurred.

(4) In section 21(5) of the Finance Act 1964 (body corporate carrying on mutual business: exclusion of double relief), and in section 17(8) of the Finance Act 1967 (relief for sale of copyright), the references to section 32(4) of the Finance Act 1960 shall include references to this paragraph. 1964 c. 49.
1967 c. 54.

2.—(1) In computing the charge to tax in respect of sums received by any person which are chargeable to tax by virtue of subsection (2) of the principal section, there shall be deducted any expense or debit which is not otherwise allowable and which, but for the change in basis, would have been deducted in computing for tax purposes the profits or gains of the trade, profession or vocation.

(2) No amount shall be deducted more than once under this paragraph.

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Transfer of right to receive a payment

3.—(1) Subject to sub-paragraph (2) below, in the case of a transfer for value of the right to receive any sum to which subsection (1) or subsection (2) of the principal section applies, any tax chargeable by virtue of that section shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in the principal section and this Schedule to sums received shall be construed accordingly.

(2) Where the occasion of the discontinuance is a change in the persons carrying on the trade, profession or vocation, and the right to receive any sum to which subsection (1) of the principal section applies is or was transferred, at the time of the change, to the persons carrying on the trade, profession or vocation after the change, tax shall not be charged by virtue of the principal section, but (except where the change took place before 19th March 1968) any sum received by those persons by virtue of the transfer shall be treated for all purposes as a receipt to be brought into the computation of profits or gains of the trade, profession or vocation in the period in which it is received.

Work in progress

4.—(1) It is hereby declared that where work in progress at the discontinuance of a profession or vocation, or the responsibility for its completion, is transferred, the sums to which subsection (1) of the principal section applies include any sums received by way of consideration for the transfer, and any sums received by way of realisation by the transferee, on behalf of the transferor, of the work in progress transferred.

(2) Where, in the case of any profession or vocation, the profits or gains of which are chargeable to tax under Case I or Case II of Schedule D there has been—

- (a) a change from a conventional basis to the earnings basis, or a change of conventional basis, and
- (b) the value of work in progress at the time of the change was debited in the accounts and allowed as a deduction in computing profits for tax purposes for a period after the change,

then, in so far as no counterbalancing credit was brought into account in computing profits for tax purposes for any period ending before or with the date of the change, tax shall be charged under subsection (2) of the principal section in respect of that amount for the year of assessment in which the change occurred as if that amount were a sum to which the said subsection (2) applies, and the change of basis were a change of the kind described in that subsection.

(3) In this paragraph "work in progress" at the time of a change of basis shall be construed in the same way as "work in progress"

at the discontinuance of a profession or vocation is construed by section 43(5) of the Finance Act 1960, with the substitution in that subsection for references to the discontinuance of references to the change of basis. SCH. 10
1960 c. 44.

Earned income relief

5. Where an individual is chargeable to tax by virtue of the principal section, and the profits or gains of the trade, profession or vocation to which he was entitled before the discontinuance, or as the case may be before the change in basis, fell to be treated as earned income for income tax purposes the sums in respect of which he is so chargeable (after any reduction under section 19 of this Act) shall also be treated for income tax purposes as earned income.

Election for charge to tax at time of discontinuance or change of basis

6.—(1) Where any sum chargeable to tax by virtue of the principal section is received in any year of assessment beginning not later than six years after the discontinuance, or as the case may be after the change of basis, the recipient may, by notice in writing sent to the inspector within two years after that year of assessment, elect that the tax so chargeable shall be charged as if the sum were received on the date on which the discontinuance took place, or as the case may be on the last day of the period at the end of which the change of basis took place and in any such case an assessment shall (notwithstanding anything in the Income Tax Acts or the Corporation Tax Acts) be made on him accordingly, and in connection with that assessment no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of paragraph 1 or paragraph 2 above.

(2) In section 33(3) of the Finance Act 1960 (election as respects tax chargeable by virtue of section 32 of that Act corresponding to the election under this paragraph) for the words 'twelve months' there shall be substituted the words 'two years'.

Company surtax

7. Subsections (4) and (5) of section 33 of the Finance Act 1960 (which, as amended by section 63 of the Finance Act 1965, concern the charge to tax on participators in a close company which is wound up) shall have effect as if references to section 32 of that Act included references to subsection (1) of the principal section. 1965 c. 25.

Partnerships

8.—(1) Section 19 of this Act shall apply as follows as respects the net amount of any sum chargeable under the principal section which is assessed by reference to a sum accruing to a partnership.

(2) The part of that net amount which is apportioned to any partner (who is an individual), or the personal representative of such an individual, shall be a net amount with which that person is chargeable under the principal section.

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(3) If the part of the said net amount which is so apportioned is a greater proportion of that amount than is the individual's share (that is to say the part to be included in his total income) of the total amount of the partnership profits assessed to income tax for the three years of assessment ending with the year in which the discontinuance or change of basis took place, the amount of the reduction to be given by way of relief shall not exceed the amount of relief which would have been so given if the apportionment had been made by reference to his share of that total amount.

Section 32.

SCHEDULE 11

QUOTED SECURITIES HELD ON 6TH APRIL 1965: ELECTION
FOR POOLING AT VALUE ON THAT DATE

1.—(1) If a person so elects, quoted securities covered by the election shall be excluded—

(a) from the principal section, and

1965 c. 25.

(b) from paragraph 22(4) of Schedule 6 to the Finance Act 1965 (which brings into the computation of the gain the cost of acquisition as well as the value on 6th April 1965).

(2) This paragraph has effect as respects any disposal after 19th March 1968.

(3) An election made by any person under this paragraph shall be as respects all disposals made by him at any time, including disposals made before the election but after 19th March 1968—

(a) of quoted securities of kinds other than fixed-interest securities and preference shares, or

(b) of fixed-interest securities and preference shares,

and references to the quoted securities covered by an election shall be construed accordingly.

Any person may make both of the elections.

(4) An election under this paragraph shall not cover quoted securities which the holder acquired on a disposal after 19th March 1968 in relation to which either of the following enactments (which secure that neither a gain nor a loss accrues on the disposal) applies, that is—

(a) paragraph 20(1) of Schedule 7 to the Finance Act 1965 (husband and wife),

(b) paragraph 2(1) of Schedule 13 to that Act (transfers within group of companies),

but this paragraph shall apply to the quoted securities so held if the person making the original disposal (that is to say the wife or husband of the holder, or the other member of the group of companies) makes an election covering quoted securities of the kind in question.

For the purpose of identifying quoted securities disposed of by the holder with quoted securities acquired by him on a disposal in

relation to which either of the said enactments applies, so far as they are of the same class, quoted securities acquired at an earlier time shall be deemed to be disposed of before quoted securities acquired at a later time.

SCH. 11

(5) For the avoidance of doubt it is hereby declared—

(a) that where a person makes an election under this paragraph as respects quoted securities which he holds in one capacity, that election does not cover quoted securities which he holds in another capacity, and

(b) that an election under this paragraph is irrevocable.

(6) An election under this paragraph shall be made by notice in writing to the inspector not later than the expiration of two years from the end of the year of assessment or accounting period of a company in which the first relevant disposal is made, or such further time as the Board may allow.

(7) Subject to paragraph 2 below, in this paragraph the “first relevant disposal”, in relation to each of the elections referred to in sub-paragraph (3) of this paragraph, means the first disposal after 19th March 1968 by the person making the election of quoted securities of the kind covered by that election.

(8) In ascertaining the first relevant disposal, and in ascertaining “the relevant time” for the purposes of paragraph 2 below, any disposal chargeable under Case VII of Schedule D shall be disregarded, and “disposal chargeable under Case VII of Schedule D” includes any case where the acquisition and disposal is in circumstances such that no gain accrues, but if a gain had accrued it would have been so chargeable.

(9) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

Election by principal company of group

2.—(1) In the case of companies which at the relevant time are members of a group of companies—

(a) an election under paragraph 1 above by the company which at that time is the principal company of the group shall have effect also as an election by any other company which at that time is a member of the group, and

(b) no election under that paragraph may be made by any other company which at that time is a member of the group.

(2) In this paragraph “the relevant time”, in relation to a group of companies, and in relation to each of the elections referred to in paragraph 1(3) above, is the first occasion after 19th March 1968 when any company which is then a member of a group disposes of quoted securities of a kind covered by that election, and for the purposes of paragraph 1(6) above that occasion is, in relation to the group, “the first relevant disposal”.

SCH. 11

(3) This paragraph shall not apply in relation to quoted securities of either kind referred to in paragraph 1(3) of this Schedule which are owned by a company which, in some period after 19th March 1968 and before the relevant time, was not a member of the group if in that period it had made an election under paragraph 1 above in relation to securities of that kind (or was treated by virtue of this paragraph, in relation to another group, as having done so), or had made a disposal of quoted securities of that kind and did not make an election within the time limited by paragraph 1(6) above.

(4) This paragraph shall apply notwithstanding that a company ceases to be a member of the group at any time after the relevant time.

1965 c. 25.

(5) In this paragraph "company" and "group" shall be construed in accordance with paragraph 1 of Schedule 13 to the Finance Act 1965.

Pooling at value on 6th April 1965:

exchange of securities etc.

3.—(1) Where a person who has made only one of the elections under the preceding provisions of this Schedule disposes of quoted securities which, in accordance with paragraphs 4 to 7 of Schedule 7 to the Finance Act 1965, are to be regarded as being or forming part of a new holding, the election shall apply according to the nature of the quoted securities disposed of, notwithstanding that under the said paragraph 4 the new holding is to be regarded as the same asset as the original holding and that the election would apply differently to the original holding.

(2) Where the election does not cover the disposal out of the new holding, but does cover quoted securities of the kind comprised in the original holding, then in computing the gain accruing on the disposal out of the new holding (in accordance with the principal section) the question of what remained undisposed of on any disposal out of the original holding shall be decided on the footing that the principal section applied to that earlier disposal.

(3) In the case converse to that in sub-paragraph (2) above (that is to say where the election covers the disposal out of the new holding, but does not cover quoted securities of the kind comprised in the original holding) the question of how much of the new holding derives from quoted securities held on 6th April 1965, and how much derives from other quoted securities, shall be decided for the purposes of this Schedule as it is decided for the purposes of the principal section.

Underwriters

4. No election under this Schedule shall cover quoted securities comprised in any underwriter's premiums trust fund, or premiums trust fund deposits, or personal reserves, being securities comprised in funds to which paragraph 9 of Schedule 7 to the Finance Act 1965 applies.

SCHEDULE 12

Section 34.

CAPITAL GAINS

PART I

CAPITAL GAINS TAX AND CORPORATION TAX

Exemption for tangible movables which are wasting assets

1.—(1) Subject to the provisions of this paragraph, no chargeable gain shall accrue on the disposal after 19th March 1968 of, or of an interest in, an asset which is tangible movable property and which is a wasting asset.

(2) Sub-paragraph (1) above shall not apply to a disposal of, or of an interest in, an asset—

(a) if, from the beginning of the period of ownership of the person making the disposal to the time when the disposal is made, the asset has been used and used solely for the purposes of a trade, profession or vocation and if that person has claimed or could have claimed any capital allowance in respect of any expenditure attributable to the asset or interest under paragraph (a) or paragraph (b) of paragraph 4(1) of Schedule 6 to the Finance Act 1965, or

1965 c. 25.

(b) if the person making the disposal has incurred any expenditure on the asset or interest which has otherwise qualified in full for any capital allowance.

(3) In the case of the disposal of, or of an interest in, an asset which, in the period of ownership of the person making the disposal, has been used partly for the purposes of a trade, profession or vocation and partly for other purposes, or has been used for the purposes of a trade, profession or vocation for part of that period, or which has otherwise qualified in part only for capital allowances—

(a) the consideration for the disposal, and any expenditure attributable to the asset or interest by virtue of the said paragraph 4(1)(a) and (b), shall be apportioned by reference to the extent to which that expenditure qualified for capital allowances, and

(b) the computation under the said Schedule 6 shall be made separately in relation to the apportioned parts of the expenditure and consideration, and

(c) sub-paragraph (1) above shall not apply to any gain accruing by reference to the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation, or to the expenditure qualifying for capital allowances.

(4) Sub-paragraph (1) above shall not apply to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market.

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1965 c. 25.

(5) Paragraph 28 of Schedule 6 to the Finance Act 1965 (assets treated as acquired at value on 6th April 1965: capital allowances to be treated as made in respect of notional expenditure on acquisition on that date) shall apply for the purposes of paragraph 11 of that Schedule (wasting assets qualifying for capital allowances) as it applies for the purposes of paragraph 6 of that Schedule (restriction of losses by reference to capital allowances).

(6) This paragraph shall be construed as one with Schedule 6 to the Finance Act 1965.

Exemption for private residences

2.—(1) Section 29 of the Finance Act 1965 shall not apply in relation to a gain if the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made wholly or partly for the purpose of realising a gain from the disposal of it, and shall not apply in relation to a gain so far as attributable to any expenditure which was incurred after the beginning of the period of ownership and was incurred wholly or partly for the purpose of realising a gain from the disposal.

(2) Sub-paragraph (1) above has effect in substitution for subsection (11) of the said section 29 (which excludes relief unless the acquisition was made for the purpose of residing in, or in the part of, the dwelling-house and not wholly or partly for the purpose of realising a gain).

Replacement of business assets

3.—(1) This paragraph has effect as respects Class I of the classes of assets in section 33(6) of the Finance Act 1965.

(2) Where the trade is a trade of dealing in or developing land, but a profit on the sale of any land held for the purposes of the trade would not form part of the trading profits, then, as regards that land, the trade shall be treated for the purposes of the said section 33 as if it were not a trade of dealing in or developing land.

(3) A person who is a lessor of tied premises shall be treated as if he occupied (as well as used) those tied premises only for the purposes of the relevant trade.

1952 c. 33.

This sub-paragraph shall be construed in accordance with section 26(2) of the Finance Act 1952 (income tax and corporation tax on tied premises).

Death of heir of entail or proper liferenter

4.—(1) The provisions of Part III of the Finance Act 1965, so far as relating to the charging of capital gains tax on the death after 19th March 1968 of an heir of entail in possession of any property in Scotland subject to an entail, whether *sui iuris* or not, or of a proper liferenter of any property, shall have effect subject to the following provisions of this paragraph.

(2) For the purposes of the said Part III, on the death of any such heir or liferenter—

(a) the deceased shall be deemed not to have been a person competent to dispose of the entailed or, as the case may be, liferented property ; SCH. 12

(b) the heir of entail next entitled to the entailed property under the entail (hereafter in this paragraph called "the next heir") or, as the case may be, the person (if any) who, on the death of the liferenter, becomes entitled to possession of the property as fiar (hereafter in this paragraph called "the fiar") shall be deemed to have acquired all the assets forming part of the property—

(i) in the case of the next heir, at the date on which the deceased succeeded to the property under the entail,

(ii) in the case of the fiar, at the date on which the instrument under which the deceased was entitled to his liferent came into operation so as to create a liferent of the property,

for a consideration equal to their market value at that date, and to have disposed of, and immediately reacquired, those assets at the date of the deceased's death for a consideration equal to their market value at that date.

(3) Section 21 of the Finance Act 1965 (alternative charge to capital gains tax) shall not apply in relation to the charging of capital gains tax on gains accruing in consequence of sub-paragraph (2)(b) above.

(4) Section 25(5) of the Finance Act 1965 (under which, in the case of the death of any individual, the relief provided for by section 24(2) of that Act in respect of capital gains tax chargeable on gains accruing in consequence of section 24(1) of that Act may in certain circumstances become available to the trustees of a settlement) shall, in a case where the deceased was such an heir of entail or liferenter as aforesaid, have effect, for the purpose of making that relief available to the next heir or, as the case may be, the fiar as well as to any such trustees, as if references—

(a) to the trustees of a settlement, or to a body of trustees, included references to the next heir or, as the case may be, the fiar,

(b) to settled property included references to the property of which the deceased was the heir of entail in possession or, as the case may be, the liferenter,

(c) to the disposal of settled property deemed to be effected in accordance with subsection (3) or subsection (4) of the said section 25 on the termination of a life interest by the death, or otherwise in consequence of the death, included references to the disposal of the property deemed to be effected in accordance with sub-paragraph (2)(b) above,

and subject to any other necessary modification.

(5) In the case of the death of any such heir or liferenter, section 29 of the Finance Act 1965 (private residences) shall, subject to all

SCH. 12 necessary modifications, apply in relation to a gain accruing in consequence of sub-paragraph (2)(b) above to the next heir or fiar on the disposal of an asset deemed to be effected in accordance with that sub-paragraph, being an asset within subsection (1) of the said section 29, where the dwelling-house or part of a dwelling-house mentioned in that subsection was the only or main residence of the deceased.

(6) Where on the death of any such heir the next heir becomes chargeable to capital gains tax on gains accruing in consequence of sub-paragraph (2)(b) above, he shall, for the purpose of paying that tax or of recovering the amount of the tax if he has already paid it, have the like right to sell or charge the entailed property or any part of it as he would have had if the tax had been estate duty leviable on the property.

1965 c. 25.

(7) Paragraph 4 of Schedule 10 to the Finance Act 1965 (postponement of payment of tax) shall have effect as if—

(a) after sub-paragraph (1)(b) there were inserted the following words—

“ or

(c) on the disposal of any property deemed to be effected on any occasion in accordance with paragraph 4(2)(b) of Schedule 12 to the Finance Act 1968,” ;

and

(b) in sub-paragraph (1), after the word “ trustees ” there were inserted the words “ or, in a case falling within head (c) of this sub-paragraph, of the next heir or of the fiar,”.

(8) In estimating, for the purposes of estate duty, the value of any property passing on the death of any such heir or liferenter, being property of which, by virtue of sub-paragraph (2)(b) above, the next heir or, as the case may be, the fiar is deemed to have disposed at the date of the deceased's death, allowance shall be made for any capital gains tax chargeable on gains accruing in consequence of the said sub-paragraph 2(b) on that death in respect of that property.

(9) This paragraph (except sub-paragraph (8) thereof) shall be construed as one with Part III of the Finance Act 1965, and sub-paragraph (8) shall be construed as one with Part I of the Finance Act 1894.

1894 c. 30.

Election for valuation on 6th April 1965

5.—(1) An election under paragraph 25(1) of Schedule 6 to the Finance Act 1965 shall be made by notice in writing to the inspector given within two years from the end of the year of assessment or accounting period of a company in which the disposal is made or such further time as the Board may by notice in writing allow.

(2) This paragraph applies to a disposal made before or after the passing of this Act, and has effect in substitution for the time limit of two years in the said paragraph 25(1) whether or not that time limit has expired before the passing of this Act.

(3) Where the said time limit has expired before the passing of this Act all such adjustments shall be made, whether by way of repayment or discharge of tax, or by assessment, as may be required to give effect to the provisions of this paragraph. SCH. 12

Land in Great Britain : election excluding valuation at current use value

6. In section 33(3) of the Finance Act 1967 after "end of the year 1967 c. 44. of assessment", there shall be inserted "or accounting period of a company", and the definition of "year of assessment" shall be repealed.

Duration of leases

7.—(1) In ascertaining for the purposes of Part III of the Finance Act 1965 the duration of a lease of land the following provisions shall have effect.

(2) Where the terms of the lease include provision for the determination of the lease by notice given by the landlord, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice given by the landlord.

(3) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date.

(4) Sub-paragraph (3) applies in particular where the lease provides for the rent to go up after a given date, or for the tenant's obligations to become in any other respect more onerous after a given date, but includes provision for the determination of the lease on that date by notice given by the tenant, and those provisions render it unlikely that the lease will continue beyond that date.

(5) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant this paragraph shall apply as if the term of the lease extended for as long as it could be extended by the tenant, but subject to any right of the landlord by notice to determine the lease.

(6) It is hereby declared that the question what is the duration of a lease is to be decided, in relation to the grant or any disposal of the lease, by reference to the facts which were known or ascertainable at the time when the lease was acquired or created.

(7) Paragraph 8 of Schedule 8 to the Finance Act 1965 (which is superseded by this paragraph) shall cease to have effect, and this paragraph shall be construed as one with the said Schedule 8 and so that the reference in paragraph 9(1) of that Schedule to the said paragraph 8 shall be taken as a reference to this paragraph.

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Disposal of debts

1965 c. 25.

8.—(1) In paragraph 11 of Schedule 7 to the Finance Act 1965—

(a) in sub-paragraph (1) (exemption for debt in hands of original creditor or his legatee), and

(b) in sub-paragraph (4) (disallowance of loss on disposal of debt by assignee connected with original creditor or his legatee)

for the words “ or his legatee ” there shall be substituted the words “ or his personal representative or legatee ”.

(2) Where the original creditor is a trustee and the debt, when created, is settled property, the said sub-paragraphs (1) and (4) shall apply as if for the references to the original creditor's personal representative or legatee there were substituted references to any person becoming absolutely entitled, as against the trustee, to the debt on its ceasing to be settled property, and to that person's personal representative or legatee.

Government securities issued at a discount

9. In Schedule 9 to the Finance Act 1965 after the entry relating to “ 6% Conversion Stock 1972 ” there shall be added the following entry:—

British Transport 3% Stock 1967-72 97½ 100

Exclusion of short-term gains accruing to trustees

10.—(1) This paragraph has effect as respects a gain accruing to a trustee on a disposal of an asset forming part of settled property, being a disposal deemed to be effected by the trustee under section 25(4) of the Finance Act 1965 (which, as extended by subsections (6) and (7) of that section, creates an occasion of charge on a termination of a life interest and on certain other occasions).

(2) The gain shall not be a chargeable gain for the purposes of Part III of the Finance Act 1965—

(a) if the trustee disposes of the asset in circumstances such that the disposal is chargeable under Case VII of Schedule D, or

(b) if by virtue of paragraph 4(2) of Schedule 9 to the Finance Act 1962 (beneficiary becoming absolutely entitled to settled property) any person is treated as if the acquisition of the asset by the trustee had been his acquisition of it, and that person disposes of the asset in circumstances such that the disposal is chargeable under the said Case VII.

(3) This paragraph shall be construed as if contained in paragraph 3 of Schedule 6 to the Finance Act 1965.

(4) There shall be made all such adjustments, whether by way of discharge or repayment of tax, or by the making of assessments, or otherwise, as are required to give effect to the provisions of this paragraph.

1962 c. 44.

Short-term gains on disposals only partly derived from relevant acquisitions

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11.—(1) This paragraph has effect where—

- (a) after 10th April 1968 there is a disposal chargeable under Case VII of Schedule D, and
- (b) an interest included in that disposal does not derive, or wholly derive, from a relevant acquisition,

and in this paragraph the interest, or part of an interest, which does not derive from a relevant acquisition is called “the untaxed element”.

(2) For the purposes of Part III of the Finance Act 1965 it shall be assumed that immediately before the said disposal the untaxed element was sold and immediately reacquired by the person making the disposal (but so that the assumed sale is not a disposal chargeable under Case VII of Schedule D for the purposes of paragraph 3(1) of Schedule 6 to the Finance Act 1965 (exclusion of short-term gains)). 1965 c. 25.

(3) Where the said disposal is a part disposal, the assumption in sub-paragraph (2) above shall be made only as respects such part of the untaxed element as can reasonably and justly be attributed to what is disposed of.

(4) For the said purposes it shall be assumed that the sale and reacquisition is for a consideration equal to the amount at which the untaxed element fell to be brought into account under section 13(4) of the Finance Act 1962 (which involves valuation at a date immediately before the disposal) in computing the gain accruing on the disposal chargeable under Case VII: 1962 c. 44.

Provided that if the untaxed element is an interest in land section 33 of the Finance Act 1967 (current use value for land in Great Britain) and Schedule 14 to that Act shall have effect as if the definition of “land” in paragraph 17 of that Schedule included what is assumed to be sold. 1967 c. 54.

(5) In this paragraph references to a disposal chargeable under Case VII of Schedule D are references to cases where the acquisition and disposal is in circumstances such that the gain accruing on it is chargeable under Case VII of Schedule D, or where it would be so chargeable if there were a gain so accruing.

(6) For the purposes of this paragraph “relevant acquisition” has the meaning given by section 13(8)(a) of the Finance Act 1962, and an interest included in the disposal shall be treated as deriving from an acquisition if without that acquisition the whole interest could not have been so included.

Exclusion of short-term gains : supplemental

12.—(1) Paragraph 10 above, and sub-paragraphs (2), (3) and (4) of paragraph 3 of Schedule 6 to the Finance Act 1965 (which make corresponding provision for cases where a disposal of an asset is followed by another disposal of that asset which is chargeable under Case VII) shall apply if what is disposed of on the second occasion

SCH. 12 does not consist of or include the whole of what was disposed of on the first occasion, so as to afford relief in respect of so much of it as was comprised in both disposals.

1965 c. 25. (2) In paragraph 3 of Schedule 6 to the Finance Act 1965 and in this Schedule references to a disposal chargeable under Case VII shall not include references to a disposal on which by virtue of paragraph 18(1) of Schedule 9 to the Finance Act 1962 neither a gain nor a loss can accrue.

1962 c. 44.

Administration : non-resident trading in United Kingdom

1952 c. 10. 13. The Table at the end of paragraph 1(3) of Schedule 10 to the Finance Act 1965 (income tax provisions applied to capital gains tax) shall include section 374 of the Income Tax Act 1952 (responsibility and indemnification of persons in whose name a non-resident person is chargeable).

Commencement

14. Except as otherwise provided, this Part of this Schedule has effect as respects any disposals of assets after 5th April 1968.

PART II

COMPANIES

Company amalgamations and reconstructions

15.—(1) Paragraph 7 of Schedule 7 to the Finance Act 1965 shall be amended as follows.

(2) Sub-paragraph (1) (issue of shares or debentures in one company to holders of shares or debentures in another company to be treated as an exchange in certain circumstances) shall apply after 10th April 1968, in relation to a company which has no share capital, as if references to shares in or debentures of a company included references to any interests in the company possessed by members of the company, and paragraphs 4 and 6 of the said Schedule 7 shall apply accordingly.

(3) Sub-paragraph (2) (reconstruction or amalgamation involving transfer of a company's business) shall only apply to a transfer at a time after 10th April 1968 if both that company and the company to which the business is transferred are at that time resident in the United Kingdom.

Transfer of business to a company

16. Paragraph 8 of Schedule 7 to the Finance Act 1965 shall not apply to a transfer after 10th April 1968 if the person, or any of the persons, to whom any gain accrues on the transfer is a company.

Dividend-stripping : receipt of dividend by member of a group

1967 c. 54. 17.—(1) This paragraph has effect where section 65(3) of the Finance Act 1965 (main provisions about dividend-stripping) or paragraph 3(4) of Schedule 11 to the Finance Act 1967 (transfers between

companies and their members or participators) applies so as to treat any amount as a capital distribution paid after 10th April 1968 if the recipient was, at the time when it became entitled to receive that amount, a member of a group of companies and if the holding consists of shares in another member of the group. SCH. 12

(2) Paragraph 3(2) of Schedule 7 to the Finance Act 1965 (post-ponement of occasion of charge) shall apply as if the inspector had duly given a direction under that sub-paragraph, and that sub-paragraph shall apply accordingly, but subject to the provisions of paragraph 9 of Schedule 10 to the Finance Act 1966 (no post-ponement where there is no expenditure against which the distribution can be set off), and the said paragraph 9(1) shall apply as if it referred to the said paragraph 3(2) as extended by this paragraph. 1965 c. 25. 1966 c. 18.

Company ceasing to be member of a group

18.—(1) If a company (in this paragraph called the chargeable company) ceases to be a member of a group of companies at any time after 10th April 1968, this paragraph shall have effect as respects any asset which the chargeable company acquired from another company which was at the time of acquisition a member of that group of companies, but only if the time of acquisition fell—

- (a) on or after 6th April 1965, and
- (b) within the period of six years ending with the time when the company ceases to be a member of the group.

Where two or more associated companies cease to be members of the group at the same time, this sub-paragraph shall not have effect as respects an acquisition by one from another of those associated companies.

(2) If, when the chargeable company ceases to be a member of the group, the chargeable company, or an associated company also leaving the group, owns, otherwise than as trading stock—

- (a) the asset, or
- (b) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

the chargeable company shall be treated for all the purposes of Part III of the Finance Act 1965 as if immediately after its acquisition of the asset it had sold, and immediately reacquired, the asset at market value at that time.

(3) For the purposes of this paragraph—

- (a) two or more companies are associated companies if, by themselves, they would form a group of companies,
- (b) a chargeable gain is carried forward from an asset to other property on a replacement of business assets if, by one or more claims under section 33 of the Finance Act 1965, the chargeable gain accruing on a disposal of the asset is

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reduced, and as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property,

- (c) an asset acquired by the chargeable company shall be treated as the same as an asset owned at a later time by that company or associated company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.

(4) If any of the corporation tax assessed on a company in consequence of this paragraph is not paid within six months from the date when it becomes payable then—

- (a) a company which on the said date, or immediately after the chargeable company ceased to be a member of the group, was the principal company of the group, and
 (b) a company which owned the asset on the said date, or when the chargeable company ceased to be a member of the group,

may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this sub-paragraph shall be entitled to recover a sum of that amount from the chargeable company.

(5) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this paragraph may be made at any time within six years from the time when the chargeable company ceased to be a member of the group, and where under this paragraph the chargeable company is to be treated as having disposed of, and reacquired, an asset, all such recomputations of liability in respect of other disposals, and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this paragraph shall be carried out.

Shares in subsidiary member of a group

19.—(1) This paragraph has effect if a company (in this paragraph called the subsidiary) ceases to be a member of a group of companies at any time after 10th April 1968, and on an earlier occasion shares in the subsidiary were disposed of by another company (in this paragraph called “the chargeable company”) which was then a member of that group in the course of an amalgamation or reconstruction in the group, but only if that earlier occasion fell—

- (a) on or after 6th April 1965, and
 (b) within the period of six years ending with the date on which the subsidiary ceases to be a member of the group.

(2) The chargeable company shall be treated, for all the purposes of Part III of the Finance Act 1965, as if immediately before the earlier occasion it had sold, and immediately re-acquired, the said shares at market value at that time.

1865 c. 25.

(3) If, before the subsidiary ceases to be a member of the group, the chargeable company has ceased to exist, or a resolution has been passed, or an order made, for the winding up of the company, or any other act has been done for the like purpose, any corporation tax to which, if the chargeable company had continued in existence, it would have been chargeable in consequence of this paragraph may be assessed and charged (in the name of the chargeable company) on the company which is, at the time when the subsidiary ceases to be a member of the group, the principal company of the group.

(4) If any of the corporation tax assessed on a company in consequence of this paragraph, or in pursuance of sub-paragraph (3) above, is not paid within six months from the date when it becomes payable, then—

- (a) a company which is on the said date, or was on the earlier occasion, the principal company of the group, and
- (b) any company taking an interest in the subsidiary as part of the amalgamation or reconstruction in the group,

may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax ; and a company paying any amount of tax under this sub-paragraph shall be entitled to recover a sum of that amount from the chargeable company, or as the case may be from the company assessed under sub-paragraph (3) above.

(5) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this paragraph may be made at any time within six years from the time when the subsidiary ceased to be a member of the group and, in relation to any disposal of the property after the earlier occasion, there shall be made all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax as may be required in consequence of the provisions of this paragraph.

(6) For the purposes of this paragraph there is a disposal of shares in the course of an amalgamation or reconstruction in a group of companies if paragraph 6 or paragraph 7 of Schedule 7 to the Finance Act 1965 (company amalgamations) applies to shares in a company so as to equate them with shares in or debentures of another company, and the companies are members of the same group, or become members of the same group as a result of the amalgamation or reconstruction.

(7) Where by virtue of paragraph 7 of the said Schedule 7 shares are to be treated as cancelled and replaced by a new issue, references in this paragraph to a disposal of shares include references to the occasion of their being so treated.

*Loss on disposal of shares etc. attributable
to depreciable transaction in a group*

20.—(1) This paragraph has effect as respects a disposal after 10th April 1968 of shares in, or securities of, a company if the value of the shares or securities has been materially reduced by any disposal of assets, on or after 6th April 1965, at other than market

SCH. 12 value by one member of a group of companies to another, and in this paragraph any such disposal of assets is called a "depreciatory transaction":

1965 c. 25.

Provided that no account shall be taken under this sub-paragraph of a disposal of assets if and to the extent that that disposal of assets fell to be treated as giving rise to a capital distribution within the meaning of Part III of the Finance Act 1965, and if the recipient of the capital distribution is the person disposing of the shares and securities.

(2) If the person making the disposal of the shares or securities is, or has at any time been, a member of the said group of companies, any allowable loss accruing on the disposal shall be reduced to such extent as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the depreciatory transaction:

Provided that if the person is not a member of the said group when that person disposes of the shares or securities, no reduction of the loss shall be made by reference to a depreciatory transaction which took place when that person was not a member of the said group.

(3) The inspector or the Commissioners shall make the decision under sub-paragraph (2) above on the footing that the allowable loss ought not to reflect any diminution in the value of the company's assets which was attributable to a depreciatory transaction if and so far as the effect of the transaction was to increase the value of the assets of any other member of the group, but allowance may be made for any other transaction on or after 6th April 1965 which has enhanced the value of the company's assets and depreciated the value of the assets of any other member of the group.

(4) If, under sub-paragraph (2) above, a reduction is made in an allowable loss, any chargeable gain accruing on a disposal of the shares or securities of any other company which was a party to the depreciatory transaction by reference to which the reduction was made, being a disposal not later than six years after the depreciatory transaction, shall be reduced to such extent as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable having regard to the effect of the depreciatory transaction on the value of those shares or securities at the time of their disposal:

Provided that the total amount of any one or more reductions in chargeable gains made by reference to a depreciatory transaction shall not exceed the amount of the reductions in allowable losses made by reference to that depreciatory transaction.

All such adjustments, whether by way of discharge or repayment of tax, or otherwise, as are required to give effect to the provisions of this sub-paragraph may be made at any time.

(5) For the purposes of this paragraph—
"securities" includes any loan stock or similar security whether secured or unsecured,

references to the disposal of assets include references to any method by which one company which is a member of a group appropriates the goodwill of another member of the group, SCH. 12

a "group of companies" may consist of companies some or all of which are not resident in the United Kingdom.

(6) References in this paragraph to the disposal of shares or securities include references to the occasion of the making of a claim under section 23(4) of the Finance Act 1965 that the value of shares or securities has become negligible, and references to a person making a disposal shall be construed accordingly. 1965 c. 25.

Disposal or acquisition outside a group of companies

21.—(1) In paragraph 4 of Schedule 13 to the Finance Act 1965 (capital allowances) for the words

"Where a member of a group of companies disposes of an asset"

there shall be substituted the words

"Where a company which is or has been a member of a group of companies disposes of an asset".

(2) In paragraph 5 of the said Schedule 13 (transitional provisions as to assets held on 6th April 1965) for the words

"in relation to a disposal of an asset by a member of a group of companies"

there shall be substituted the words

"in relation to a disposal of an asset by a company which is or has been a member of a group of companies".

(3) References in the said paragraphs 4 and 5 to the acquisition of an asset by one member of a group from another shall, notwithstanding sub-paragraphs (1) and (2) above, continue to be read as references to acquisition at a time when both are members of the group.

(4) This paragraph applies as respects any disposal after 10th April 1968.

Non-resident group of companies

22.—(1) This paragraph has effect for the purposes of section 41 of the Finance Act 1965 (residents interested in non-resident company).

(2) Part I of Schedule 13 to the Finance Act 1965 (group of companies resident in the United Kingdom), without paragraph 1 (definition of company and group) and without paragraph 7 (recovery of tax), shall apply in relation to non-resident companies which are members of a non-resident group of companies, as it applies in relation to companies resident in the United Kingdom which are members of a group of companies.

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(3) Paragraphs 18 and 19 above shall apply for the said purposes as if for any reference in those paragraphs to a group of companies there were substituted a reference to a non-resident group of companies, and as if references to companies were references to companies not resident in the United Kingdom.

(4) This paragraph has effect as respects any disposal after 10th April 1968.

Supplemental

23.—(1) For the purposes of this Part of this Schedule—

(a) a “non-resident group” of companies—

(i) in the case of a group, none of the members of which are resident in the United Kingdom, means that group, and

(ii) in the case of a group, two or more members of which are not resident in the United Kingdom, means the members which are not resident in the United Kingdom ;

(b) “group” and “subsidiary” shall be construed in accordance with sub-paragraphs (b) and (c) of paragraph 1 of Schedule 13 to the Finance Act 1965, with any necessary modifications where applied to a company incorporated under the law of a country outside the United Kingdom,

(c) except in the definition of “non-resident group” above, or as otherwise expressly provided, “company” shall be construed in accordance with sub-paragraph (a) of the said paragraph 1 (which relates to companies resident in the United Kingdom).

1965 c. 25.

(2) For the purposes of this Part of this Schedule a group remains the same group so long as the same company remains the principal company of the group, and if at any time the principal company of a group becomes a subsidiary of another company the group of which it was the principal company before that time shall be regarded as the same as the group of which that other company, or one of which it is a subsidiary, is the principal company, and the question whether or not a company has ceased to be a member of a group shall be determined accordingly.

(3) For the said purposes the passing of a resolution or the making of an order, or any other act, for the winding-up of a company shall not be regarded as the occasion of that company, or of any subsidiary of that company, ceasing to be a member of a group of companies.

(4) Without prejudice to the provisions of paragraph 2(1) of Schedule 13 to the Finance Act 1965, where any provision in this Part of this Schedule makes the assumption that a member of a group has sold or acquired an asset, it shall be assumed also that it was not a sale to or acquisition from another member of the group.

(5) Any provision in this Part of this Schedule making the assumption that an asset is sold and reacquired at market value shall have effect subject to the provisions of section 33 of the Finance Act 1967 1967 c. 54. (current use value of land in Great Britain). SCH. 12

(6) This Part of this Schedule has effect as respects tax for any accounting period ending after 10th April 1968, and so far as it relates to liability to tax arising on a disposal deemed to have been made on or before 10th April 1968, shall have effect for tax for earlier accounting periods.

SCHEDULE 13

Section 34.

SHORT TERM CAPITAL GAINS

Exemption for tangible movables which are wasting assets

1.—(1) Chargeable assets for the purposes of Case VII of Schedule D shall not include an asset which is tangible movable property and which is a wasting asset, and shall not include an interest in tangible movable property which is a wasting asset.

(2) Sub-paragraph (1) above shall not apply to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market.

(3) In this paragraph "wasting asset" has the meaning given by paragraph 9 of Schedule 6 to the Finance Act 1965. 1965 c. 25.

(4) This paragraph has effect as respects a disposal after 19th March 1968.

Company amalgamations and reconstructions

2. Paragraph 13(1) of Schedule 9 to the Finance Act 1962 (issue of shares or debentures in one company to holders of shares or debentures in another company to be treated as an exchange in certain circumstances) shall apply after 10th April 1968, in relation to a company which has no share capital, as if references to shares in or debentures of a company included references to any interests in the company possessed by members of the company, and paragraphs 10 and 12 of that Schedule shall apply accordingly. 1962 c. 44.

Husband and wife dealing in shares, etc.

3.—(1) Where, in the case of a man and his wife living with him, one of them—

(a) disposes of shares to his wife or her husband after 10th April 1968, and

(b) disposes of other shares, of the same kind as those disposed of to the wife or husband, to another person (in this paragraph called "a third party"),

the provisions of this paragraph shall have effect as respects any shares acquired by the person making those disposals which, but for the provisions of paragraph 8 of Schedule 9 to the Finance Act

SCH. 13 1962 (identification of shares), could have been comprised in either of those disposals.

(2) If, but for the provisions of this sub-paragraph, shares disposed of to a third party—

(a) would not be taxable shares, and

(b) but for the disposal to the wife or husband would be taxable shares,

the identification shall be reversed so that the shares disposed of to the third party (or, if the quantity disposed of to the third party was greater than the quantity disposed of to the wife or husband, a part of them equal to the quantity disposed of to the wife or husband) shall be taxable shares.

(3) If there is more than one disposal to the wife or husband, or more than one disposal to a third party, the provisions of this paragraph shall be applied to shares disposed of on an earlier date before being applied to shares disposed of on a later date, and the re-identification of the shares first disposed of shall accordingly determine the way in which this paragraph applies to the shares comprised in the later disposal.

(4) In this paragraph “taxable shares” are shares the disposal of which, together with their acquisition, constitutes an acquisition and disposal within the meaning of Chapter II of Part II of the Finance Act 1962.

1962 c. 44.

(5) This paragraph shall apply in relation to a disposal of any assets as it applies in relation to a disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

Husband and wife dealing in shares etc.: sale at a loss and reacquisition

4.—(1) Where, in the case of a man and his wife living with him, a loss accrues to one of them from his or her acquisition and disposal of any shares, and the other of them is to be treated in accordance with this paragraph as acquiring the same shares within the prescribed period after the disposal, that loss shall be allowable under Case VII by deduction from any gain accruing to the other (that is to say the wife or husband of the person to whom the loss accrued) from an acquisition and disposal of the shares beginning with that acquisition by the other, but shall not be so allowable by deduction from any other gain accruing to either of them.

(2) Shares disposed of by the husband or wife shall not for the purposes of this paragraph be treated as the same as shares acquired by the other if for the purposes of paragraph 9 of Schedule 9 to the Finance Act 1962—

(a) the person disposing of the shares is to be treated as having reacquired the same shares, or

(b) the person acquiring the shares is to be treated as thereby reacquiring shares disposed of,

or if the person acquiring the shares acquires them from her husband or his wife.

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(3) Subject to sub-paragraph (2) above, where the husband or wife disposes of shares and the other afterwards acquires the like shares within the prescribed period from the disposal, the other is to be treated for the purposes of this paragraph as acquiring the same shares as those disposed of (or, if the quantity disposed of was greater than the quantity acquired, a part equal to the quantity acquired) and, so far as necessary, the rules in paragraphs (a) to (d) of paragraph 9(2) of Schedule 9 to the Finance Act 1962 (successive disposals and successive acquisitions) shall apply for the purpose of determining which are the same shares, as if the husband and wife were one person, and disregarding all shares excluded by sub-paragraph (2) above. 1962 c. 44.

(4) For the purposes of this paragraph shares acquired by the wife or husband for transfer or delivery after the date of transfer or delivery of the shares sold by the other shall be deemed to have been acquired after the disposal of the shares sold.

(5) Where the husband or wife acquires shares and, under paragraph 8 of Schedule 9 to the Finance Act 1962, shares previously disposed of by him or her are identified with those shares, then—

(a) this paragraph shall not apply in relation to any loss accruing from that acquisition and disposal, and

(b) that acquisition shall not be treated for the purposes of this paragraph as an acquisition of the same shares as any shares disposed of by the other,

and sub-paragraphs (4) to (6) of paragraph 9 of the said Schedule 9 shall apply as if references in those sub-paragraphs to sub-paragraph (3) of that paragraph included references to this sub-paragraph.

(6) In this paragraph “the prescribed period” means—

(a) in the case of an acquisition of shares through a stock exchange, one month, and

(b) in the case of an acquisition of shares otherwise than through a stock exchange, or in the case of an acquisition of some other kind of asset, six months.

(7) This paragraph shall apply in relation to acquisitions or disposals of any assets as it applies in relation to acquisitions or disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

Construction and commencement

5.—(1) Except as otherwise provided, this Schedule has effect as respects any disposals of assets after 10th April 1968.

(2) This Schedule shall be construed as one with Chapter II of Part II of the Finance Act 1962.

Section 35.

SCHEDULE 14

ESTATE DUTY: GIFTS, ETC.

Substitution of seven years for five years

1. List of enactments amended

1881 c. 12.

Customs and Inland Revenue Act 1881

Section 38(2)(a) except as respects gifts for public or charitable purposes.

1894 c. 30.

Finance Act 1894

Section 2(3) except as respects gifts for public or charitable purposes.

1939 c. 41.

Finance Act 1939

Section 31(2).

1940 c. 29.

Finance Act 1940

Section 43(2).

Section 46(1).

Section 47(1) (in two places).

Section 48(3) (in two places).

Section 51(1A).

Section 55(1)(a).

Section 58(1)(a).

In Schedule 7, paragraphs 1(4), 2(1)(3)(5) and 2(6)(c).

1950 c. 15.

Finance Act 1950

Section 45(2)(a)(b).

1954 c. 44.

Finance Act 1954

Section 29(1)(2)(4).

1958 c. 56.

Finance Act 1958

Section 28(1)(8)(10).

Consequential amendments

2.—(1) In section 38(2)(a) of the Customs and Inland Revenue Act 1881 (as applied by section 2(1)(c) of the Finance Act 1894) for “three months” (as originally enacted) substitute “seven years, or in the case of a gift made for public or charitable purposes twelve months”.

(2) In section 2(3) of the Finance Act 1894 for “twelve months” substitute “seven years, or in the case of a gift made for public or charitable purposes twelve months”.

1910 c. 8.

(3) In section 59(3) of the Finance (1909-10) Act 1910 the reference to the period provided by that section shall be taken as a reference to seven years, or in the case of a gift made for public or charitable purposes twelve months.

Benefits from companies

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3.—(1) In section 46(2) of the Finance Act 1940 for “last five accounting years” substitute “last seven accounting years”, and, where the company came into existence in any of the last seven accounting years mentioned in the said section 46(2) as so amended, the reference to the last seven accounting years shall be construed as a reference to the accounting year in which the company came into existence and all later accounting years. 1940 c. 29.

(2) In the case of a death on or before 19th March 1970 the exception in subsection (1) of the principal section shall not apply to any of the amendments made by that subsection in section 46 or section 47 of, or Schedule 7 to, the Finance Act 1940 if any benefits accrued to the deceased from the company after 19th March 1963.

(3) The provisions of the said Act as to what are to be treated as benefits accruing to the deceased from the company, and as to when a benefit is treated as having accrued therefrom, shall, as amended by this Act, apply for the purposes of sub-paragraph (2) above as they apply for the purposes of the said section 46, but as if the references in section 47 of that Act, and paragraph 2 of Schedule 7 to that Act, to the seven years ending with the death of the deceased were treated as references to the said seven years less so much thereof as fell before 20th March 1963.

*Surrender of title to benefits from a company :
graduation of charge*

4.—(1) In section 65(1) of the Finance Act 1960 for “two years” substitute “four years”, and— 1960 c. 44.

(a) in paragraph (a) of the said subsection (1) for “three years” substitute “five years”, and

(b) in paragraph (b) of that subsection for “four years” substitute “six years”.

(2) Sub-paragraph (1) above shall not have effect so as to give a lesser percentage reduction than the percentage reduction (if any) which, assuming that the deceased had died on 19th March 1968, would have fallen to be made under the said subsection (1) without the amendments made by this paragraph.

SCHEDULE 15

Section 41.

SPECIAL CHARGE: TRUSTS

Income out of capital, etc.

1.—(1) The investment income of an individual arising under a trust shall be ascertained without regard to any part of it shown to the satisfaction of the Board to be attributable to payments duly made otherwise than out of the income of the trust.

(2) For the purposes of this paragraph the income of a trust shall be ascertained without regard to—

(a) income or deductions of any description which, under section 42 of this Act, are to be left out of account in ascertaining aggregate investment income, or

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(b) income from another trust which is shown to the satisfaction of the Board to be attributable to payments duly made otherwise than out of the income of that trust, and 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.

Recovery of charge from trustees

2.—(1) If the person originally chargeable has not paid the special charge or any part of it, and so elects as respects any trust—

- (a) his liability to the special charge shall be reduced by the amount, if any, attributable to the trust, and
- (b) the amount so attributable shall be chargeable on the person answerable for the trust.

(2) If the person originally chargeable has paid part only of the special charge he may nevertheless make an election in accordance with sub-paragraph (1) above, but the reduction under sub-paragraph (1)(a) above in respect of the trust, or, if more than one, of all the trusts together, shall not exceed the amount remaining unpaid.

(3) An election under this paragraph shall be made by notice in writing to the Board within thirty days from the date of the notice of assessment to the special charge or such longer time as the Board may allow, and shall not be effective unless the notice contains, to the satisfaction of the Board, sufficient particulars of the trust, the names and addresses of the persons answerable for the trust, and the amount of investment income arising under the trust to the person making the election.

(4) In this and the four next following paragraphs "trust" does not include a foreign trust.

3.—(1) If the person originally chargeable has paid the whole of the special charge he may recover from the person answerable for a trust the amount, if any, attributable to that trust.

(2) If the person originally chargeable has paid the part of the special charge which is not attributable to any trust, and any additional amount, he may recover from the person answerable for a trust the amount, if any, attributable to that trust, but so that the total amount recoverable, and the amount recoverable from any one trust, shall not exceed that additional amount.

4. If at any time after the expiration of thirty days from the date when the special charge became due, all or any part of the special charge remains due from the person originally chargeable, then, without prejudice to the powers of recovery from that person, the amount attributable to any trust may be charged on the person answerable for the trust, but not so as to charge more than is unpaid.

5. The amount with which a person answerable for a trust is chargeable under paragraph 2 or paragraph 4 above shall be due and payable by him on the issue to him of a notice of charge by the

Board, and an appeal shall lie against the notice of charge in the same way as an appeal lies against an assessment to the special charge.

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Income derived from another trust

6.—(1) This paragraph has effect where all or part of an individual's investment income arising under a trust (in this paragraph called "the first trust") derives from another trust (in this paragraph called "the second trust").

(2) If—

- (a) the person originally chargeable has made an election under paragraph 2 above as respects the first trust, or
- (b) any amount has become chargeable on the person answerable for the first trust in accordance with paragraph 4 above,

the person answerable for the first trust may elect that for all the purposes of this Schedule the individual's investment income deriving from the second trust shall be treated as arising under that trust, and not under the first trust, and then any election under paragraph 2 above as respects the first trust shall take effect also as an election as respects the second trust.

An election under this sub-paragraph shall be made by notice in writing to the Board within thirty days from the date of the notice of charge on the person answerable for the first trust, or such longer time as the Board may allow, and shall not be effective unless the notice contains, to the satisfaction of the Board, sufficient particulars of the second trust, the names and addresses of the persons answerable for that trust, and the amount of the individual's investment income deriving from that trust.

(3) If the person originally chargeable has made a claim for recovery of any amount under paragraph 3 above from the person answerable for the first trust, the person answerable for the first trust may by notice in writing to the person originally chargeable require that, as respects his rights of recovery, the individual's investment income deriving from the second trust shall be treated as arising under that trust, and not under the first trust.

A notice under this sub-paragraph shall give particulars of the names and addresses of the persons answerable for the second trust, and of the amount of the individual's investment income deriving from the second trust.

(4) Where income arising under the second trust derives from a third trust, the person answerable for the second trust shall have the rights conferred by this paragraph as respects that income, and so on for any further trust, and in such a case references in this paragraph to the first and second trust shall be construed accordingly.

(5) For the purposes of this paragraph the amount of the individual's income which derives from the second trust shall be that fraction of his income arising under the first trust of which—

- (a) the numerator is the income arising under the second trust to the trustees of the first trust, ascertained in accordance with paragraph 1(1) above,

- SCH. 15 (b) the denominator is the total income of the first trust, ascertained in accordance with paragraph 1(2) above.

Notice to persons answerable for a trust

7.—(1) The person originally chargeable shall not be entitled to exercise his right under paragraph 3 above unless, not later than six months after his payment of, or of the part of, the special charge or after the making of the assessment, whichever is the later, he gave notice in writing to the person answerable for the trust of his intention to exercise any right available to him under paragraph 3 above.

(2) If notice is so given, the person answerable for the trust shall not be entitled to give a notice under paragraph 6(3) above unless, not later than one month after the receipt of the notice under this paragraph, he has given notice in writing of its receipt to the person answerable for the second trust.

(3) If an application is made to the Board in accordance with the following provisions of this paragraph, showing to their satisfaction the amount of an individual's investment income which arises under a trust, the Board shall give to the person originally chargeable, and to the person answerable for the trust, a certificate stating the amount of the special charge attributable to the trust, and, if less, the amount recoverable from the person answerable for the trust.

(4) An application under sub-paragraph (3) above—

(a) may be made by the person originally chargeable, if he has paid the whole of the special charge, or the part of the special charge which is not attributable to any trust together with an additional amount, but shall be made not later than six months after the payment, or after the making of the assessment, whichever is the later,

(b) may be made by the person answerable for the trust not later than one month after receipt of a notice under sub-paragraph (1) above, or as the case may be, of a notice under sub-paragraph (2) above.

Application of trust property in payment of charge

1925 c. 18.
1925 c. 20.

8.—(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 28 of the Law of Property Act 1925, or otherwise) shall include a power to apply or direct the application of capital money, and to raise money by mortgage, for the purpose of paying the special charge, or interest on the special charge, of making payments in advance of assessment in or towards the special charge, and of discharging any liability arising under the preceding provisions of this Schedule.

(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 preceding provisions of this Schedule in respect of income derived from property subject to the trust as if—

(a) that amount were estate duty charged on that property,

(b) estate duty was so charged on the cesser of a life interest in the property, occurring at the end of the year 1967-68, being an interest not subject to any interest in the property in fact existing under the trust, and

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(c) that amount 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 sub-paragraph (2) above was a share only of income from the property, whether or not subject to other interests, that sub-paragraph shall apply as if the income so derived had been derived from a corresponding share of the property.

(4) This paragraph shall, in its application to Scotland, have effect as if for sub-paragraph (1) there were substituted the following sub-paragraph :—

(1) For the purpose of paying the special charge, of making payments in advance of assessment in or towards the special charge, and of discharging any liability arising under the preceding provisions of this Schedule, 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 sub-paragraph (1) above 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. **1925 c. 18.**

Foreign trusts

9.—(1) If it is shown to the satisfaction of the Board—

- (a) that any part of the special charge in respect of an individual's aggregate investment income is directly or indirectly attributable to a foreign trust, and
- (b) that neither the individual or his wife nor, if different, the person chargeable, nor the trustee of any intermediate trust which is not a foreign trust, was absolutely entitled, as against the trustees, to the capital of the trust, or to a part of the capital of the trust of an amount or value not less than the amount of the special charge so attributable, and
- (c) that the income in question does not arise under a settlement in relation to which the individual or his wife is a settlor under any of the provisions of Part XVIII of the Income Tax Act 1952,

1952 c. 10.

the Board shall relieve all persons of liability to that part of the special charge, by discharge or by repayment, and, as between the

SCH. 15 person originally chargeable and any person answerable for a trust, any amount recovered in respect of that part of the special charge shall be repaid.

(2) For the purposes of this paragraph part of the special charge is directly or indirectly attributable to a foreign trust—

(a) if, in accordance with this Schedule, it is attributable to that trust, or

(b) if income of a trust which is not a foreign trust derives from the foreign trust, and part of the special charge would be attributable to the foreign trust if it were not a foreign trust and if an election were made under paragraph 6 of this Schedule.

(3) For the purposes of this paragraph—

(a) a trust is, in relation to a foreign trust, an intermediate trust if any part of the investment income arising under the trust derives, directly or indirectly, from the foreign trust,

(b) where a person has any rights or powers which could be exercised so as to make him absolutely entitled, as against the trustees, to the capital of the trust or any part of it, he shall be treated as absolutely entitled, as against the trustees, to the capital or that part of it.

Limitation of liability of trustees

10.—(1) Where on a claim against a trustee or tenant for life made in pursuance of this Schedule by the Board or some other person it is shown to the satisfaction of the Board that the rights of indemnification of the trustee or tenant for life out of the trust estate are, otherwise than by negligence or default on his part, insufficient to provide for his reimbursement, the Board shall give such directions for the limitation or release of his liability as appear just and equitable.

(2) Sub-paragraph (1) above shall not apply to a claim against a trustee for any amount in respect of which the trustee could have made an election or given a notice under paragraph 6 of this Schedule.

(3) Where a person who has paid any part of the special charge proves to the satisfaction of the Board that by reason of directions under sub-paragraph (1) above he is deprived of the right to recover any amount in respect thereof, the Board shall repay that amount to him.

Interpretation

11.—(1) The following provisions have effect for the interpretation of this Schedule in a case where the special charge falls to be made in respect of an individual's aggregate investment income and that income includes any amount arising under a trust.

(2) For the purposes of this Schedule the amount of the special charge attributable to the trust shall be the fraction of the special charge of which—

(a) the numerator is the individual's investment income arising under the trust, and

(b) the denominator is the individual's aggregate investment income, ascertained before making any deduction under section 42(7) of this Act.

(3) Where credit for foreign tax falls to be allowed against the special charge, the amount of the special charge attributable to the trust shall be ascertained—

(a) by applying the fraction in sub-paragraph (2) above to the special charge without allowing the credit against the amount of the special charge, and

(b) by deducting from the resulting amount so much of the credit, if any, as is allowable in respect of income arising from the trust.

(4) For the said purposes "the person originally chargeable" means the individual or other person liable to pay the special charge apart from the provisions of this Schedule.

12.—(1) For the said purposes "the person answerable" for a trust is—

(a) in the case of a subsisting settlement within the meaning of the Settled Land Act 1925, or in Northern Ireland the 1925 c. 18. Settled Land Acts 1882 to 1890, the tenant for life,

(b) in the case of any other subsisting trust, the trustees.

(2) Where the trust has come to an end, "the person answerable" for the trust is the person who immediately after the trust came to an end was entitled in law to the trust property, either beneficially or as the trustee of property settled under another trust, and if more than one person was then so entitled, those persons shall be severally liable as persons answerable for the trust in proportion to the value of their interests therein.

(3) In applying sub-paragraph (2) above a person becoming entitled by virtue of a mortgage or charge, or in Scotland by virtue of the exercise of a power of sale contained in a bond and disposition in security, shall be disregarded, and sub-paragraph (2) above shall apply to the person or persons who would have been entitled in law to the trust property but for the mortgage or charge, or the exercise of the power of sale.

(4) For the purposes of this paragraph 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 from the person answerable for the trust shall be recoverable from the person described in sub-paragraphs (2) and (3) above, and the remainder from the person described in sub-paragraph (1) above, and "subsisting" in relation to a settlement or trust shall be construed accordingly.

13.—(1) In this Schedule, unless the context otherwise requires—

a trust is a "foreign trust" if and only if the general administration of the trust is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the

SCH. 15 time being are not resident or not ordinarily resident in the United Kingdom,

1925 c. 18. "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,

"trustee" includes a personal representative and "trust" shall be construed accordingly,

1958 c. 45. and references to a trust do not include references to a trust constituted in pursuance of a unit trust scheme as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940.

1940 c. 9 (N.I.)

(2) In this Schedule 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 for income tax purposes generally, or for surtax.

(3) Where any property or fund is held as to different parts thereof on different trusts, this Schedule shall apply separately to each part.

Section 45.

SCHEDULE 16

SPECIAL CHARGE: CLOSE COMPANIES

Special apportionments

1. Subject to paragraph 2 below—

- (a) any apportionment under Part IV of this Act of the income of a close company shall be made according to the respective interests of the participators in that company,
- (b) any sub-apportionment under Part IV of this Act of income of one close company apportioned to another close company shall be made according to the respective interests of the participators in that other company.

2.—(1) In the case of any company—

- 1952 c. 10. (a) the provisos to section 258(3) of the Income Tax Act 1952 (beneficial interests in loans),
- (b) section 259(1) of that Act (interests which would arise in a winding up), and
- (c) section 260 of that Act, without subsection (5) (further provision as to underlying interests),

shall apply as they applied, in the case of an investment company, to apportionments for surtax under Chapter III of Part IX of that Act (a reference to a participator being substituted for any reference to a member or loan creditor).

(2) For the purposes of sub-paragraph (1) above, a loan creditor shall be deemed to have an interest in any company which is an investment company to the extent that the income to be apportioned or assets representing it is or have been expended or applied, or is or are available to be expended or applied, in redemption or repayment

or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor. SCH. 16

In this sub-paragraph "investment company" means a company whose income consists wholly or mainly of investment income, construing "investment income" in accordance with paragraph 8(1) of Schedule 18 to the Finance Act 1965.

1965 c. 25.

3.—(1) Notice of any apportionment (including any sub-apportionment) of the income of a close company under Part IV of this Act shall be given by serving on the company a statement showing the amount of the income of the company up to the required standard for the purposes of the apportionment, and either the amount apportioned to each participator or the amount apportioned to each class of shares, as the Board think fit.

(2) A company which is aggrieved by any such notice of apportionment shall be entitled to appeal to the Special Commissioners on giving notice to an officer of the Board within thirty days after the date of the notice.

Recovery of special charge from company

4.—(1) This paragraph has effect where the special charge falls to be made in respect of an individual's investment income and that income includes any amount—

(a) treated as part of his total income for surtax in consequence of an apportionment (with any sub-apportionment) of the income of a company under section 78 of the Finance Act 1965, or

(b) treated as part of his investment income in consequence of an apportionment (with any sub-apportionment) of the income of a close company under Part IV of this Act, and in this paragraph "the apportioned income" means any amount falling within paragraph (a) or (b) above.

(2) If at the expiration of thirty days from the time when the special charge became due, any part of it remains unpaid, the Board may by notice in writing addressed to the company require the company to pay what then remained unpaid up to the following limit.

(3) The said limit is the fraction of the special charge falling to be made in respect of the individual's aggregate investment income of which—

(a) the numerator is the apportioned income, and

(b) the denominator is the individual's aggregate investment income, ascertained before making any deduction under section 42(7) of this Act.

(4) Where credit for foreign tax falls to be allowed against the special charge, the said limit shall be ascertained by applying the fraction in sub-paragraph (3) above to the special charge without allowing the credit against the amount of the special charge.

(5) Any sum required to be paid by a company in pursuance of the notice shall be payable on the day next following the giving of the notice, and the provisions of Part IV of this Act shall apply as if that amount had been assessed on the company.

Section 52.

SCHEDULE 17

SELECTIVE EMPLOYMENT TAX—AREAS FOR HOTEL ETC. REFUND

The areas referred to in section 52(1) of this Act are—

(1) the following employment exchange areas (that is to say, areas for which an employment exchange has been established for the purposes of the Employment and Training Act 1948) as subsisting at the date of the passing of this Act, being areas which at that date formed part of the development areas hereinafter mentioned within the meaning of section 26(6) of the Finance Act 1967, namely—

1948 c. 46.

1967 c. 54.

(a) in the Northern Development Area—

| | |
|-------------------|-----------------------|
| Alnwick | Keswick |
| Amble | Malton |
| Barnard Castle | Middleton-in-Teesdale |
| Sub-Office | Sub-Office |
| Berwick-on-Tweed | Millom |
| Brampton | Morpeth |
| Carlisle | Northallerton |
| Cleator Moor | Penrith |
| Cockermouth | Pickering |
| Crook | Prudhoe |
| Grange-over-Sands | Richmond |
| Sub-Office | Scarborough |
| Haltwhistle | Thirsk |
| Hexham | Ulverston |
| Kendal | Whitby |

(b) in the Scottish Development Area—

| | |
|----------------|------------------|
| Annan | Fort William |
| Anstruther | Fraserburgh |
| Arbroath | Galashiels |
| Ayr | Girvan |
| Banchory | Glenrothes |
| Banff | Haddington |
| Blairgowrie | Hawick |
| Brechin | Helensburgh |
| Buckie | Huntly |
| Campbeltown | Invergordon |
| Carlisle | Inverness |
| Castle Douglas | Inverurie |
| Cowdenbeath | Kirkcaldy |
| Crieff | Kirkwall |
| Cumnock | Lanark |
| Cupar | Lerwick |
| Dingwall | Lesmahagow |
| Dumfries | Leven and Methil |
| Dunoon | Lochgilphead |
| Elgin | Lossiemouth |
| Eyemouth | Montrose |
| Forfar | Nairn |
| Forres | Newton Stewart |

| | | |
|--------------------------|--------------------------|---------|
| North Berwick Sub-Office | Sanquhar Stirling | SCH. 17 |
| Oban | Stonehaven Branch Office | |
| Perth | Stornoway | |
| Peterhead | Stranraer | |
| Pitlochry | Thurso | |
| Portree | Troon | |
| Rothesay | Wick | |
| St. Andrews | | |

(c) in the Welsh Development Area—

| | |
|---------------------------|-----------------------|
| Aberystwyth | Llandeilo Sub-Office |
| Amlwch | Llandovery Sub-Office |
| Bangor | Llandrindod Wells |
| Beaumaris | Llandyssul |
| Bethesda | Llangefni |
| Blaenau Ffestiniog | Llangollen |
| Brecon | Llanrwst |
| Caernarvon | Machynlleth |
| Cardigan | Milford Haven |
| Carmarthen | Newtown |
| Conway | Pembroke Dock |
| Crickhowell Branch Office | Penmaenmawr |
| Denbigh | Penygroes |
| Fishguard | Portmadoc |
| Haverfordwest | Pwllheli |
| Holyhead | Tenby |
| Lampeter | Welshpool |

(d) in the South Western Development Area—

| | |
|-----------------|-------------|
| Barnstaple | Looe |
| Bideford | Newquay |
| Bude Sub-Office | Penzance |
| Camborne | Redruth |
| Camelford | St. Austell |
| Falmouth | St. Ives |
| Helston | Truro |
| Ilfracombe | Wadebridge |
| Liskeard | |

(2) in the said Scottish Development Area—

- (a) the islands comprised in the employment exchange areas of Ardrossan and Largs as subsisting as aforesaid ;
- (b) so much of the employment exchange area of Aberdeen as subsisting as aforesaid as at the date of the passing of this Act was comprised—
- (i) in the area of the district council of Alford or of Ellon ; or
- (ii) in the small burgh of Ellon.

SCH. 18
Section 54.

SCHEDULE 18

PREMIUM SAVINGS BONDS: NEW TERMS

1. Premium Savings Bonds are a Government Security and are eligible for inclusion in draws for cash prizes. These prizes are free from United Kingdom Income Tax, Surtax and Capital Gains Tax.

1958 c. 6.
(7 & 8 Eliz. 2).

2. Premium Saving Bonds (Series B) (hereinafter called Bonds) will be issued in units of £1 by the Treasury and will be subject to regulations made from time to time by the Treasury under section 12 of the National Debt Act 1958, or having effect by virtue of that Act. The principal of the Bonds and the prizes allotted will be a charge on the National Loans Fund with recourse to the Consolidated Fund.

3. The purchaser will be required to fill in an application form giving his full name and address, the amount of Bonds which he wishes to purchase and his usual signature.

4. Bonds are not transferable either during the lifetime or on the death of the registered holder. No responsibility can be accepted in respect of their use as security for a loan.

5. There will be a monthly prize fund which will be determined by calculating one month's interest on each bond eligible for the draws in that month. The rate of interest will be $4\frac{3}{8}\%$ per annum or such other rate as may be prescribed under the provisions of paragraph 15 below.

6. A draw will be held each week to allot from the prize fund one prize of £25,000, and a draw will be held each month to allot the amount remaining after the amounts for the prizes for the weekly draws in that month have been set aside.

7. A Bond will be eligible for inclusion in the first draw held after the expiration of the three clear calendar months following the month in which it is purchased, provided that it has not been repaid before the expiration of those three months. After a Bond has qualified for its first draw it will be included in each succeeding draw, unless it has been repaid before the first day of the month in which the draw is held or (subject to the provisions of paragraph 15 below) the registered holder has died before the first day of a period of twelve consecutive calendar months preceding the month in which the draw is held.

8. Each £1 unit Bond will have one chance in each draw for which it is eligible. Each £1 unit Bond may win not more than one prize in each draw for which it is eligible and in draws producing more than one prize will be allotted the highest prize for which it is drawn.

9. Notwithstanding the provisions of paragraph 7 above any Bond purchased in contravention of any regulation limiting the number of unit Bonds which may be held by any person shall not be eligible for inclusion in any draw until the holding has been reduced to not more than the maximum number permitted by such regulation.

10. The monthly prize fund will be allocated in prizes of the following numbers and amounts (or such other numbers and amounts as may be prescribed under the provisions of paragraph 15 below):—

- (a) For the weekly draws there will be set aside an amount to be allocated as single prizes of £25,000 each week, the number of such prizes to be equal to the number of Saturdays in the month.
- (b) For the monthly draw the remaining prize fund will then be allocated as follows:—

(i) each complete £100,000 will be divided into:

| | |
|--------------|-----------|
| 1 prize | of £5,000 |
| 10 prizes | of £1,000 |
| 10 prizes | of £500 |
| 20 prizes | of £250 |
| 30 prizes | of £100 |
| 150 prizes | of £50 |
| 2,580 prizes | of £25 |

(ii) of the remainder, each complete £10,000 will be divided into:

| | |
|------------|-----------|
| 1 prize | of £1,000 |
| 1 prize | of £500 |
| 2 prizes | of £250 |
| 3 prizes | of £100 |
| 20 prizes | of £50 |
| 268 prizes | of £25 |

(iii) any amount of less than £10,000 will be allocated in prizes of £25, any residual sum of less than £25 being added to the prize fund in the following month.

11. The serial numbers of Bonds which are allotted prizes will be published in the London Gazette, and the registered holders will be notified by post at their last address as recorded at the Bonds and Stock Office.

12. All matters relating to the method and conduct of the draw and allotment of prizes shall be at the sole discretion of the Postmaster General, whose decision as to which Bonds have drawn prizes shall be final.

13. The purchase price of a Bond is repayable in full on application to the Bonds and Stock Office.

14. For the purposes of this Prospectus a Bond shall be deemed to be repaid on the day on which a warrant for the amount repayable is posted to the person entitled to it.

15. The Treasury reserve the right by giving not less than three months notice in the London, Edinburgh and Belfast Gazettes:—

- (a) to vary the rate of interest specified in paragraph 5 above for determining the amount of the prize fund;
- (b) to vary the scale of prizes set out in paragraphs 6 and 10 above;

- SCH. 19
- (c) to vary the provisions of paragraph 7 above insofar as they relate to the eligibility of a Bond for inclusion in a draw after the death of the registered holder ;
 - (d) to declare any Bonds purchased on or before a date specified in the Notice to be ineligible for further draws.

16. If the Treasury give notice under paragraph 15 above to vary the terms of this Prospectus for any Bonds sold on those terms, its terms shall be deemed to be varied accordingly, as from the date of publication of the Notice, for any application to buy a Bond or Bonds on or after that date.

Section 59.

SCHEDULE 19

SOCIAL SERVICES AGREEMENT BETWEEN TREASURY AND MINISTRY OF FINANCE FOR NORTHERN IRELAND

1949 c. 23. The Commissioners of Her Majesty's Treasury and the Ministry of Finance for Northern Ireland, with a view to assimilating the burdens on the Exchequer of the United Kingdom and the Exchequer of Northern Ireland in respect of social and allied services, have entered into the following Agreement which amends as from 28th November 1966 the Agreement of 11th February 1949, relating to social and allied services, set out in the Schedule to the Social Services (Northern Ireland Agreement) Act 1949.

1. The said Agreement of 11th February 1949 shall have effect as if:—

- (a) there were substituted for sub-paragraphs (a) to (e) of paragraph (i) of article 1 the following sub-paragraphs:—
 - 1966 c. 20. “(a) the Ministry of Social Security Act 1966, and the corresponding enactments in Northern Ireland ;
 - 1965 c. 53. (b) the Family Allowances Act 1965, and the corresponding enactments in Northern Ireland ; and
 - 1946 c. 81. (c) the National Health Service Act 1946, the National Health Service (Scotland) Act 1947, and the corresponding enactments in Northern Ireland.” ;
 - 1947 c. 27.
- (b) in sub-paragraph (a) of paragraph (ii) of article 1, for the words “the Family Allowances Act 1945”, there were substituted the words “the Family Allowances Act 1965”, and for the words “the Ministry of National Insurance” there were substituted the words “the Ministry of Social Security” ;
- (c) in sub-paragraph (b) of paragraph (ii) of article 1, for the words “sub-paragraphs (a), (b), (c) and (e)”, there were substituted the words “sub-paragraphs (a) and (b)” ;

(d) in sub-paragraph (c) of paragraph (ii) of article 1, for the words "sub-paragraph (d)", there were substituted the words "sub-paragraph (c)"; SCH. 19

(e) there were substituted for paragraph (a) of article 3 the following paragraph:—

"(a) to maintain the rates of—

(i) benefits corresponding to those payable in Great Britain under the Ministry of Social Security 1966 c. 20. Act 1966, and

(ii) family allowances,

in general parity with the rates of benefits and allowances obtaining in Great Britain ; and".

2. This Agreement shall not come into operation until confirmed by Acts of the Parliaments of the United Kingdom and Northern Ireland respectively, but upon being so confirmed shall apply as from 28th November 1966.

In Witness whereof Brian Kevin O'Malley and John McCann two of the Commissioners of Her Majesty's Treasury have hereunto set their hands and seals and the Official Seal of the Ministry of Finance for Northern Ireland has been hereunto affixed this Twenty-eighth day of February 1968.

Signed, Sealed and Delivered by Brian Kevin O'Malley one of the Commissioners of Her Majesty's Treasury in the presence of:— } B. K. O'Malley

F. R. Green,
House of Commons,
London, S.W.1.
Civil Servant

Signed Sealed and Delivered by John McCann one of the Commissioners of Her Majesty's Treasury in the presence of:— } J. McCann

F. R. Green,
House of Commons,
London, S.W.1.
Civil Servant

The Official Seal of the Ministry of Finance for Northern Ireland was hereunto affixed in the presence of:— } H. V. Kirk

C. J. Bateman,
Civil Servant,
Ministry of Finance,
Northern Ireland.

Section 61.

SCHEDULE 20

REPEALS

PART I

CUSTOMS AND EXCISE REPEALS

| Chapter | Short Title | Extent of Repeal |
|---|--|---|
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 44. | The Customs and Excise Act 1952. | Section 66. |
| 5 & 6 Eliz. 2. c. 49. | The Finance Act 1957. | Section 3. |
| 7 & 8 Eliz. 2. c. 58. | The Finance Act 1959. | In section 1(7) the words from "and section 3 of the Finance Act 1957" onwards. |
| 1963 c. 9. | The Purchase Tax Act 1963. | In Part I of Schedule 1, in Group 14, paragraph (2) of the exemptions, and in paragraph (a) of Group 26 the words "Diaries, calendars and similar articles; and" |
| 1964 c. 49. 1965 c. 25. | The Finance Act 1964. The Finance Act 1965. | Section 7(1) and (5). In section 5, subsections (1), (2), (6) and (7), and in subsection (5) the words "II and" and the words from "except" onwards. In Schedule 5, Parts I, II, III, IV and VI. |
| 1966 c. 18. | The Finance Act 1966. | Section 4. Section 5 (on the expiration of the period of one month beginning with the day on which this Act is passed). In Schedule 3, paragraph 2(2)(b). |
| 1967 c. 54. | The Finance Act 1967. | In section 1— subsection (1)(b); in subsection (2), paragraphs (a), (c) and (d) and, in the words following the paragraphs, the figure "1" and the words "3 and 4 respectively"; subsection (3)(a) and (d). Schedules 1, 3 and 4. |

The above repeals in the Finance Act 1965 do not affect licences taken out before 20th March 1968.

PART II

SCH. 20

DOUBLE TAXATION RELIEF REPEALS

| Chapter | Short Title | Extent of Repeal |
|---|--------------------------|---|
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 10. | The Income Tax Act 1952. | In Schedule 16 paragraphs 5, 6, 7 and 8. |
| 1965 c. 25. | The Finance Act 1965. | In Schedule 16 paragraphs 1 and 6. |

This Part of this Schedule has effect as respects relief from income tax or capital gains tax for the year 1968-69 and subsequent years of assessment, and as respects relief from corporation tax for the financial year 1968 and subsequent financial years.

PART III

CAPITAL GAINS REPEALS

| Chapter | Short Title | Extent of Repeal |
|-------------|-----------------------|--|
| 1965 c. 25. | The Finance Act 1965. | In section 17 subsections (7) and (8) where the acquisition and disposal take place after 19th March 1968. Section 24(10) as respects a death after 19th March 1968. Section 29(11). In Schedule 6, paragraph 9(1)(b), and in paragraph 25(1) the words from "by notice" to "date of the disposal". In Schedule 8 paragraph 8 as respects a disposal after 5th April 1968. |
| 1967 c. 54 | The Finance Act 1967. | In section 33(3) the words from "and 'year of assessment'" to the end of the subsection. |

PART IV

ESTATE DUTY REPEALS

| Chapter | Short Title | Extent of Repeal |
|-----------------------------------|--|--|
| 52 & 53 Vict. c. 7. | The Customs and Inland Revenue Act 1889. | In the first paragraph of section 11(1) the words from "shall be read as if" to "said description of property". |
| 10 Edw. 7 & 1 Geo. 5. c. 8. | The Finance (1909-10) Act 1910. | In section 59 subsection (1), and in subsection (2) the words "and this section" and, as respects gifts made after 19th March 1968, the words from "which are made" to "circumstances or". |
| 3 & 4 Geo. 6. c. 29. | The Finance Act 1940. | In section 46(2) proviso (b). |
| 9 & 10 Geo. 6. c. 64. | The Finance Act 1946. | Section 47. Schedule 11. |
| 5 & 6 Eliz. 2. c. 49. | The Finance Act 1957. | In section 38(10) the words from "except in" to the end of the subsection. |
| 8 & 9 Eliz. 2. c. 44. | The Finance Act 1960. | Section 64(1). |

This Part of this Schedule has effect in the case of a death after 19th March, 1968.

PART V

EXCHANGE CONTROL REPEALS

| Chapter | Short Title | Extent of Repeal |
|---------------------------|--|--|
| 10 & 11 Geo. 6. c. 14. | The Exchange Control Act 1947. | In section 30, in subsection (1)(v), and in subsection (3), the words "Treasury bills or". |
| 1964 c. 60. | The Emergency Laws (Re-enactments and Repeals) Act 1964. | In section 40 the words "Treasury bills". In section 2(3), in paragraph (a) of the definition of "security" the words "and Treasury bills". |

PART VI

SCH. 20

MISCELLANEOUS REPEALS

| Chapter | Short Title | Extent of Repeal |
|---|-----------------------------|---|
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 10. | The Income Tax Act 1952. | Section 205(3). Section 397(3). |
| 8 & 9 Eliz. 2. c. 44. | The Finance Act 1960. | Section 40(1)(c). |
| 1965 c. 25. | The Finance Act 1965. | In Schedule 17, paragraph 4(3), the words from "and as re- gards" to "each of the others" as respects a distribu- tion made after 10th April 1968. |
| 1967 c. 54. | The Finance Act 1967. | Section 16(1). |

The repeal of section 397(3) of the Income Tax Act 1952 has effect for the year 1969-70 and subsequent years of assessment.



British Standard Time Act 1968

1968 CHAPTER 45

An Act to establish the time for general purposes at one hour in advance of Greenwich mean time throughout the year. [26th July 1968]

BE IT ENACTED by the Queen'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:—

British
standard
time.

1.—(1) The time for general purposes in the United Kingdom (to be known as British standard time) shall be one hour in advance of Greenwich mean time throughout the year; and any reference to a specified point of time in any enactment or any legal document (whether passed or made before or after the passing of this Act) shall be construed accordingly unless it is otherwise expressly provided.

(2) Nothing in this section affects the use of Greenwich mean time for purposes of astronomy, meteorology, navigation or other purposes for which that time is adopted by international usage, or the construction of any document referring to a point of time in connection with any of those purposes.

Northern
Ireland.

2.—(1) In this Act “enactment” includes an enactment of the Parliament of Northern Ireland.

1920 c. 67.

(2) For the purposes of section 6 of the Government of Ireland Act 1920 (powers of the Parliament of Northern Ireland to make laws) this Act shall be deemed to have been passed before the day appointed for the purposes of that section.

3. Unless other provision is made by a law of the States of Jersey or of Guernsey or by an Act of Tynwald, as the case may be, section 1 of this Act shall have effect in and in relation to the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man as it has effect in and in relation to the United Kingdom. Channel Islands and Isle of Man.

4.—(1) This Act shall come into force on 27th October 1968. Commencement and duration.

(2) Sections 1 to 3 of this Act shall expire at two o'clock, Greenwich mean time, in the morning of 31st October 1971 unless made permanent under subsection (3) below; and the provisions of Schedule 1 to this Act shall have effect in the event of the expiration of those sections.

(3) Her Majesty may by Order in Council direct that the said sections 1 to 3 shall have permanent effect; and any such Order may repeal subsection (2) above and the said Schedule 1.

(4) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (3) above unless a draft thereof has been laid before Parliament and has been approved by a resolution of each House of Parliament passed before the end of the year 1970.

5.—(1) This Act may be cited as the British Standard Time Act 1968. Short title and repeals.

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

SCHEDULES

SCHEDULE 1

Section 4.

PROVISIONS CONTINGENT ON EXPIRATION OF SECTIONS 1 TO 3

1889 c. 63. 1. Subject to the provisions of this Schedule, section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply, in the event of the expiration of sections 1 to 3 of this Act, as if those sections had been repealed by another Act.

2. In the event of the expiration of the said sections 1 to 3, the enactments repealed by this Act shall, subject to paragraph 3 below, thereupon revive; but if other provision is made by a law of the States of Jersey or of Guernsey or by an Act of Tynwald, the Summer Time Acts 1922 to 1947 as revived by this paragraph shall not apply to the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, as the case may be.

1925 c. 64.

3. Section 1(2) of the Summer Time Act 1925 (which altered the period of summer time) shall not revive by virtue of paragraph 2 above in any event; and if the other provisions of the Summer Time Acts 1922 to 1947 so revive, they shall have effect subject to the modification that in section 3(1) of the Summer Time Act 1922 (which defines the period of summer time)—

1922 c. 22.

- (a) for the word “April”, in both places where it occurs, there shall be substituted the word “March”; and
- (b) for the words from “following” (where that word last occurs) onwards there shall be substituted the words “following the fourth Saturday in October”.

Section 5.

SCHEDULE 2

ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|----------------------------------|---|------------------|
| 43 & 44 Vict. c. 9. | The Statutes (Definition of Time) Act 1880. | The whole Act. |
| 6 & 7 Geo. 5. c. 45. | The Time (Ireland) Act 1916. | The whole Act. |
| 12 & 13 Geo. 5. c. 22. | The Summer Time Act 1922. | The whole Act. |
| 14 & 15 Geo. 5. c. 24 (N.I.). | The Time Act (Northern Ireland) 1924. | The whole Act. |
| 15 & 16 Geo. 5. c. 64. | The Summer Time Act 1925. | The whole Act. |
| 10 & 11 Geo. 6. c. 16. | The Summer Time Act 1947. | The whole Act. |
| 1954 c. 33 (N.I.). | The Interpretation Act (Northern Ireland) 1954. | Section 39 (1). |



Health Services and Public Health Act 1968

1968 CHAPTER 46

An Act to amend the National Health Service Act 1946 and the National Health Service (Scotland) Act 1947 and make other amendments connected with the national health service; to make amendments connected with local authorities' services under the National Assistance Act 1948; to amend the law relating to notifiable diseases and food poisoning; to amend the Nurseries and Child-Minders Regulation Act 1948; to amend the law relating to food and drugs; to enable assistance to be given to certain voluntary organisations; to enable the Minister of Health and Secretary of State to purchase goods for supply to certain authorities; to make other amendments in the law relating to the public health; and for purposes connected with the matters aforesaid. [26th July 1968]

BE IT ENACTED by the Queen'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:—

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AMENDMENTS CONNECTED WITH THE NATIONAL HEALTH SERVICE

Hospital and specialist Services

1.—(1) If the Minister is satisfied, in the case of a hospital providing hospital and specialist services, that it is reasonable so to do he may, subject to the provisions of this section, authorise accommodation and services at the hospital to be made, to such extent as he may determine, available for resident patients who undertake, or in respect of whom an undertaking

Accommodation and treatment, at hospitals providing hospital and specialist services, of persons as private resident patients.

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is given, to pay such charges as the Minister may in accordance with the following provisions of this section determine, and the Minister may recover those charges.

(2) The Minister may allow accommodation and services to which an authorisation under the foregoing subsection relates to be made available in connection with the treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving, whether in an honorary or paid capacity, on the staff of a hospital providing hospital and specialist services, of private patients of that practitioner as resident patients.

(3) The Minister, for the purpose of determining charges to be paid under subsection (1) above, may classify the hospitals providing hospital and specialist services and may, in the case of each class, determine, in respect of each period of twelve months beginning with 1st April first falling after the date on which the determination is made, the charges to be paid under subsection (1) above in respect of accommodation and services provided during that period at a hospital falling within that class: and in determining such charges in respect of a period the Minister shall have regard, so far as reasonably practicable, to the total cost (exclusive of costs appearing to him to be properly attributable to capital account) which, by reference to facts known to him at the time of the determination, it is estimated will be incurred during that period in the provision for resident patients of hospital and specialist services at hospitals falling within that class, and may include in any such charges, in such cases as appear to him fit, such amounts as appear to him proper and reasonable to be included by way of contribution to expenditure appearing to him to be properly attributable to capital account.

(4) The Minister may under the foregoing subsection determine different charges for different accommodation and for different services and in relation to different circumstances.

(5) The Minister may allow such deduction from the amount of a charge due by virtue of an undertaking given under this section by, or in respect of, a patient as he thinks proper—

- (a) in respect of treatment given to the patient under subsection (2) above; and
- (b) in respect of any period during which the accommodation to which the undertaking relates is temporarily vacated by the patient.

(6) Nothing in this section shall prevent accommodation from being made available for a patient other than one mentioned in subsection (1) above if the use thereof is needed more

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urgently for him on medical grounds than for a patient so mentioned and no other suitable accommodation is available.

(7) This and the next following section shall have effect in Scotland in place of section 5 of the 1947 Act.

2.—(1) If the Minister is satisfied, in the case of a hospital providing hospital and specialist services, that it is reasonable so to do, he may authorise accommodation and services at the hospital to be made, to such extent as he may determine, available in connection with the treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving, whether in an honorary or paid capacity, on the staff of any such hospital, of private patients of that practitioner otherwise than as resident patients, being patients who undertake, or in respect of whom an undertaking is given, to pay, in respect of the provision of any such accommodation and any such services, such charges as the Minister may determine, and the Minister may recover those charges.

Accommodation and treatment, at hospitals providing hospital and specialist services, of persons as private non-resident patients.

(2) The Minister may under the foregoing subsection determine different charges for different accommodation and for different services and in relation to different circumstances.

(3) No accommodation and no services shall be so made available under subsection (1) above as to prejudice persons availing themselves of services at the hospital otherwise than as private patients.

3.—(1) The two last foregoing sections shall have effect in place of section 5 of the 1946 Act, and, except as hereinafter mentioned, that section shall accordingly cease to have effect.

Transitional provisions relating to accommodation and treatment of private patients in England and Wales.

(2) The said section 5 shall, by virtue of this section, continue to have effect in relation to an arrangement in force immediately before the coming into operation of this section for the provision under that section of accommodation for a patient; but if, at any time, the charges payable by virtue of the undertaking given under that section for payment of charges relating to the accommodation and services provided for the patient are higher than the charges which would, at that time, be payable if the accommodation and services were provided under section 1, or, as the case may be, section 2 of this Act, and an undertaking is given, by or in respect of the patient, for the payment of charges determined in accordance with the said section 1 or, as the case may be, the said section 2, then, as from the date on which that undertaking becomes effective, the said section 5 shall cease to have effect in relation to the said arrangement, and the said section 1 or, as the case may be, section 2 shall have effect accordingly.

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(3) Charges prescribed by regulations in force under the said section 5 immediately before the coming into operation of this section shall, in respect of accommodation and services provided under section 1 or 2 of this Act during the period ending with 31st March next following that date, be deemed to have been determined under the former section or the latter, as the case may be.

(4) This section does not apply to Scotland.

Amendment as to fixing of charges for accommodation made available on part payment.

4.—(1) Section 4 of the 1946 Act (which empowers the Minister to make accommodation in single rooms or small wards available for patients who undertake, or in respect of whom an undertaking is given, to pay for the accommodation such charges as may be determined in the prescribed manner) shall, in relation to undertakings given after the coming into operation of this section, have effect as if, for the words “determined in the prescribed manner”, there were substituted the words “determined by the Minister”.

(2) The Minister may allow such deductions as he thinks fit from the amount of a charge due by virtue of an undertaking given (whether before or after the coming into operation of this section) under the said section 4 to be paid for accommodation in respect of any period during which the accommodation is temporarily vacated by the person for whom it is made available.

(3) Charges prescribed by regulations under the said section 4 which are in force immediately before the coming into operation of this section shall, in relation to undertakings given after the coming into operation of this section, be deemed to have been determined by the Minister under that section as amended by this section.

(4) This section shall have effect in Scotland as if, for any reference therein to section 4 of the 1946 Act, there were substituted a reference to section 4 of the 1947 Act; and as if, in subsection (1) thereof, for the words “determined by the Minister”, there were substituted the words “determined by the Secretary of State” and as if subsection (3) thereof were omitted.

Power of the Minister to designate certain hospitals in England and Wales as university hospitals.

5.—(1) If the Minister is satisfied that a hospital vested in him or a group of hospitals so vested provides, or is to provide, for a university facilities for undergraduate or post-graduate clinical teaching, he may, after consultation with the university, by order designate the hospital or group as a university hospital.

(2) An order made under the foregoing subsection in relation to a hospital or group of hospitals may provide that Part II of Schedule 3 to the 1946 Act (constitution of Hospital Management Committees) shall have effect, in relation to the Committee appointed to exercise functions with respect to the management and control of the hospital or group, subject to such modifications as may be specified in the order; but no provision shall be made by virtue of this subsection except after consultation by the Minister with the university with which the hospital or group is associated.

(3) Where the Minister makes an order under subsection (1) above in relation to a hospital or group of hospitals—

(a) it shall be the duty of the Regional Hospital Board for the area in which the hospital or group is situated to provide for the university with which the hospital or group is associated such facilities as appear to the Minister to be required for clinical teaching and research, and that duty shall, subject to and in accordance with regulations made by the Minister and such directions as may be given by the Minister or the Board, be exercised by the Hospital Management Committee for the hospital or group; and

(b) section 14(2) of the 1946 Act (which authorises the making of provision by regulations with respect to the appointment of medical and dental officers to the staff of hospitals and, in particular, for the constitution of advisory appointments committees consisting, in the case of a hospital other than a teaching hospital, of persons nominated by the Regional Hospital Board and the Hospital Management Committee of the hospital affected, respectively) shall, in the case of the hospital or the hospitals of the group, as the case may be, have effect as if, for the words “nominated by the Regional Hospital Board and the Hospital Management Committee of the hospital affected, respectively”, there were substituted the words “nominated respectively by the Regional Hospital Board, the Hospital Management Committee and the university with which the hospital is associated”.

(4) This section does not apply to Scotland.

6.—(1) The functions of the Board of Governors of a teaching hospital shall include power, subject to and in accordance with regulations made by the Minister and such directions as may be given by him, to administer on his behalf, in accordance with arrangements approved by him, hospital and specialist services provided at another hospital, being one not vested in him, and

Power of Board of Governors of a teaching hospital to administer services outside the hospital.

PART I the services of specialists at all or any of the following places, namely, a health centre provided under Part III of the 1946 Act, a clinic and, if necessary on medical grounds, the home of a patient.

(2) This section does not apply to Scotland.

Distribution of income, and investment of capital, of Hospital Endowments Fund.

7.—(1) The income of the Hospital Endowments Fund shall, instead of being distributed amongst the several Regional Hospital Boards and Hospital Management Committees in accordance with regulations having effect by virtue of subsection (5)(c) of section 7 of the 1946 Act (that is to say, proportionately to the shares of the capital value of the fund apportioned amongst those bodies), be so distributed in such proportions as may, in accordance with regulations made by the Minister, be determined at such intervals or on such occasions as may be fixed by or under the regulations, and, accordingly,—

- (a) in subsection (6) of that section (which relates to the use by those bodies of income derived from the said fund), for the words “under the last foregoing subsection”, there shall be substituted the words “which is derived from the Hospital Endowments Fund; and
- (b) in subsection (7) of that section (which makes provision for securing that the objects of an endowment and the observance of any conditions attaching thereto are not prejudiced by the provisions of that section), the last reference to that section shall be construed as including a reference to this subsection.

(2) In section 56(2) of the 1946 Act (which authorises the payment to the National Debt Commissioners of moneys forming part of the said fund and the investment of moneys so paid in any securities which are for the time being authorised by Parliament as investments for savings banks funds), for the words from “in any securities” onwards there shall be substituted the words “in any manner for the time being specified in Part I, II or III of Schedule 1 to the Trustee Investments Act 1961”.

1961 c. 62.

(3) The proportions in which the said income is, by virtue of section 7(5)(c) of the 1946 Act, being distributed as aforesaid at the coming into operation of this section shall, for the purposes of subsection (1) above, be deemed to have been duly determined in pursuance thereof.

(4) This section does not apply to Scotland.

8.—(1) Section 11(1) of the 1946 Act (which among other things requires the Minister to secure that each area for which a Regional Hospital Board is constituted is such that the provision of hospital and specialist services therein can conveniently be associated with a university having a school of medicine) shall have effect with the addition at the end thereof of the words “ or with two or more such universities ”.

PART I
 Amendments
 as to
 association
 with
 universities
 of provision
 of hospital
 and specialist
 services.

(2) Part I of Schedule 3 to the 1946 Act (which among other things requires that the members of a Regional Board shall include persons appointed after consultation with the university with which the provision of hospital and specialist services in the area of the Board is to be associated) shall have effect with the insertion after the word “ university ” of the words “ or universities ”.

(3) This section shall have effect in Scotland as if, for the references therein to section 11(1) of, and Part I of Schedule 3 to, the 1946 Act, there were substituted references to section 11(1) of, and Part I of Schedule 4 to, the 1947 Act.

9.—(1) Section 14(2)(b) of the 1946 Act shall have effect with the substitution, for the words “ on the occasion of ”, of the words “ for the purpose of filling ”.

Amendments
 as to
 appointment
 of officers.

(2) Section 14(2)(b) of the 1947 Act shall have effect with the substitution, for the words “ on the occasion of ”, of the words “ for the purpose of filling ”.

Health Services provided by local health Authorities

10.—(1) It shall be the duty of every local health authority to secure, whether by making arrangements with Boards of Governors of teaching hospitals, Hospital Management Committees or voluntary organisations for the employment by those Boards, Committees or organisations of certified midwives or by themselves employing such midwives, that the number of such midwives so employed who are available in the authority’s area for attendance on women in their homes as midwives is adequate for the needs of the area and that the midwives so available as aforesaid are enabled to render all services reasonably necessary for the proper care of the women upon whom they so attend.

Midwifery
 services.

(2) A local health authority may make provision in their area in manner aforesaid for the attendance on women, elsewhere than in their homes or in hospitals vested in the Minister, as midwives of certified midwives so employed.

(3) A local health authority may make arrangements with a Hospital Management Committee exercising functions

PART I

with respect to the management and control of a hospital or with a Board of Governors exercising functions with respect to the administration of a teaching hospital for there to be made available in the hospital, on such terms and conditions as may be agreed, the services of certified midwives employed by the authority for the purposes of either of the two foregoing subsections and may make arrangements with another local health authority for there to be made available in that other authority's area, on such terms and conditions as may be agreed, the services of such midwives as aforesaid.

1953 c. 47. (4) For the purposes of this section a woman named in an order having effect by virtue of section 6 of the Emergency Laws (Miscellaneous Provisions) Act 1953 (exemption of certain women from Midwives Act 1951) shall, while the order is in force with respect to her, be deemed to be a certified midwife.

1951 c. 53.

(5) Section 20 of the 1946 Act (submission to the Minister by local health authorities of proposals for carrying out their duties under sections 21 to 28 of that Act) shall have effect as if any reference to those duties included a reference to the duty of local health authorities under this section.

1964 c. xxxv. (6) This section shall have effect in place of section 23 of the 1946 Act and, so far as concerns arrangements for making the services of midwives available in hospitals, in place of section 29 of the Newcastle upon Tyne Corporation Act 1964, and accordingly—

(a) any arrangements made under the first-mentioned section by a local health authority which are in force immediately before the coming into operation of this section shall, so far as they could be made under subsection (1) above, have effect as if so made, and the submission under section 20 of the 1946 Act of proposals for carrying out the duty of the local health authority under this section by means of those arrangements shall not be requisite ;

(b) any proposals submitted by a local health authority under the said section 20 for carrying out their duties under the said section 23 which are pending at the date of the coming into operation of this section, and any notice served or recommendation made before that date under subsection (2) of the said section 20 in relation to those proposals shall be treated as if they were respectively proposals submitted for carrying out the duty of the local health authority under this section and a notice served or recommendation made in relation to proposals so submitted ;

(c) any arrangements made under the said section 29 by the Corporation of Newcastle upon Tyne which are in force immediately before the coming into operation of this section shall, so far as they could be made under subsection (3) above, have effect as if so made.

(7) This section shall have effect in Scotland in place of section 23 of the 1947 Act, as if—

(a) in subsections (1) and (3) thereof, for any reference to a Hospital Management Committee, there were substituted a reference to a Regional Hospital Board, and any reference to a teaching hospital, or to the Board of Governors of any such hospital, were omitted ;

(b) in subsection (5) thereof, for the references to section 20 and sections 21 to 28 of the 1946 Act, there were substituted references respectively to section 21 and sections 22 to 27 of the 1947 Act ; and

(c) subsections (4) and (6) thereof were omitted ;

and for transitional purposes the following provisions shall have effect:—

(i) any arrangements made under section 23 of the 1947 Act by a local health authority which are in force immediately before the coming into operation of this section shall, so far as they could be made under subsection (1) above, have effect as if so made, and the submission under section 21 of the 1947 Act of proposals for carrying out the duty of the local health authority under this section by means of those arrangements shall not be requisite ;

(ii) any proposals submitted by a local health authority under the said section 21 for carrying out their duties under the said section 23 which are pending at the date of the coming into operation of this section, and any notice served or recommendation made before that date under subsection (2) of the said section 21 in relation to those proposals shall be treated as if they were respectively proposals submitted for carrying out the duty of the local health authority under this section and a notice served or recommendation made in relation to proposals so submitted.

11.—(1) A local health authority may make provision in their area for the visiting by health visitors, for the purpose mentioned in section 24 of the 1946 Act (health visiting), of persons elsewhere than in their homes. Health visiting and district nursing.

PART I

(2) A local health authority may make provision in their area for securing the attendance of nurses on persons who require nursing elsewhere than in their own homes.

(3) The power under subsection (1) above of a local health authority may be exercised in like manner as that in which their duty under section 24 of the 1946 Act may be discharged, and the power under subsection (2) above of such an authority may be exercised in like manner as that in which their duty under section 25 of that Act may be discharged.

(4) A local health authority may make arrangements with another local health authority for there to be made available in that other authority's area, on such terms and conditions as may be agreed, the services of health visitors employed by the authority for the purposes of subsection (1) above or section 24 of the 1946 Act, and the services of nurses employed by them for the purposes of subsection (2) above or section 25 of that Act.

(5) This section shall have effect in Scotland as if, for the references therein to sections 24 and 25 of the 1946 Act, there were substituted references respectively to sections 24 and 25 of the 1947 Act.

**Prophylaxis,
care and
after-care.**

12.—(1) Subject to the next following subsection, a local health authority may, with the approval of the Minister, and to such extent as he may direct shall, make arrangements for the purpose of the prevention of illness and for the care of persons suffering from illness and for the after-care of persons who have been so suffering and in particular, but without prejudice to the generality of the foregoing provisions, for—

- (a) the provision, equipment and maintenance of residential accommodation for the care of persons with a view to preventing them from becoming ill, the care of persons suffering from illness and the after-care of persons who have been so suffering ;
- (b) the provision, for persons whose care is undertaken with a view to preventing them from becoming ill, persons suffering from illness and persons who have been so suffering, of centres or other facilities for training them or keeping them suitably occupied and the equipment and maintenance of such centres ;
- (c) the provision, for the benefit of such persons as are mentioned in the last foregoing paragraph, of ancillary or supplementary services ; and
- (d) as regards persons suffering from mental disorder within the meaning of the Mental Health Act 1959, the appointment of officers to act as mental welfare officers

under that Act and, in the case of such persons so suffering as are received into guardianship under Part IV of that Act (whether the guardianship of the local health authority or of other persons), the exercise of the functions of the authority in respect of them.

(2) Such an authority shall neither have the power nor be subject to a duty to make under this section arrangements for the provision of facilities for any of the purposes mentioned in section 15(1) of the Disabled Persons (Employment) Act 1944 c. 10. 1944.

(3) No arrangements under this section shall provide for the payment of money to persons for whose benefit they are made except—

(a) in so far as they may provide for the remuneration of such persons engaged in suitable work in accordance with the arrangements; or

(b) to persons who are, or have been, suffering from mental disorder within the meaning of the Mental Health Act 1959 c. 72. 1959. c. 72. Act 1959, are under the age of sixteen years and are resident in accommodation provided under the arrangements, of such amounts as the local health authority think fit in respect of their occasional personal expenses where it appears to that authority that no such payment would otherwise be made.

(4) The Minister may make regulations as to the conduct of premises in which, in pursuance of arrangements made under this section, are provided for persons whose care is undertaken with a view to preventing them from becoming sufferers from such mental disorder as aforesaid or who are, or have been, suffering therefrom residential accommodation or facilities for training them or keeping them suitably occupied, and any such regulations may in particular confer on officers of the Minister authorised thereunder such powers of inspection as may be prescribed by the regulations.

(5) A local health authority may, with the approval of the Minister, recover from persons availing themselves of services provided in pursuance of arrangements made under this section such charges (if any) as the authority consider reasonable, having regard to the means of those persons.

(6) Section 20 of the 1946 Act shall have effect as if any reference to duties of local health authorities under sections 21 to 28 of that Act included a reference to the duty of local health authorities under this section.

(7) Subsections (1) to (3) of this section shall have effect in place of section 28(1) of the 1946 Act as extended by section 6

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1959 c. 72.

of the Mental Health Act 1959, and subsection (4) of this section shall have effect in place of section 7 of the said Act of 1959, and accordingly—

(a) any arrangements made under the said section 28 by a local health authority which are in force immediately before the coming into operation of this section shall,

(i) so far as they could be made under subsection (1) above, have effect as if so made ;

1958 c. 33.

(ii) so far as they relate to any matters falling within section 3(1) of the Disabled Persons (Employment) Act 1958, have effect as if made under that section ;

(b) the submission under section 20 of the 1946 Act of proposals for carrying out the duty of the local health authority under this section by means of such arrangements which are so in force shall not be requisite ;

(c) any proposals submitted by a local health authority under the said section 20 for carrying out their duties under the said section 28 which are pending at the date of the coming into operation of this section, and any notice served or recommendation made under subsection (2) of the said section 20 in relation to those proposals shall be treated as if they were respectively proposals submitted for carrying out the duty of the local health authority under this section and a notice served or recommendation made in relation to proposals so submitted ;

(d) any regulations under the said section 7 which are in force at the coming into operation of this section, so far as they could be made under this section, shall have effect as if so made.

(8) This section does not apply to Scotland.

Home
help and
laundry
facilities.

13.—(1) It shall be the duty of every local health authority to provide on such a scale as is adequate for the needs of their area, or to arrange for the provision on such a scale as is so adequate of, home help for households where such help is required owing to the presence of a person who is suffering from illness, lying-in, an expectant mother, aged, handicapped as a result of having suffered from illness or by congenital deformity or a child who has not attained the age which, for the purposes of the Education Act 1944 is, in his case, the upper limit of the compulsory school age, and every such authority shall have power to provide or arrange for the provision of laundry facilities for households for which home help is being, or can be, provided under this subsection.

1944 c. 31.

(2) A local health authority may, with the approval of the Minister, recover from persons availing themselves of help or facilities provided under this section, such charges (if any) as the authority consider reasonable, having regard to the means of those persons.

(3) This section shall have effect in place of section 29 of the 1946 Act.

(4) This section shall have effect in Scotland in place of section 28 of the 1947 Act ; as if, in subsection (1) thereof, for the reference to the Education Act 1944, there were substituted a reference to the Education (Scotland) Act 1962 and the word "compulsory" were omitted ; and as if subsection (3) thereof were omitted.

14.—(1) Subsection (2) of section 22 of the 1946 Act (which enables local health authorities to charge for residential accommodation, day nurseries, food or articles provided under that section for mothers and young children) shall have effect with the substitution, for the words "residential accommodation, day nurseries, food or articles", of the words "residential accommodation, day nurseries, child-minders, food or articles".

Amendment of section 22 of 1946 Act and section 22 of 1947 Act.

(2) For subsection (2) of section 22 of the 1947 Act (which enables local health authorities to charge for residential accommodation, day nurseries, food and other things provided under that section for mothers and young children) there shall be substituted the following subsection :—

"(2) Where under the aforesaid arrangements there is provided residential accommodation, day nurseries, child-minders, food or anything that may be prescribed, not being a drug, a medicine, or an appliance of a type normally supplied, the local health authority may recover from any person for whom such provision is made such charge as the authority may determine, having regard to the cost of such provision :

Provided that the authority may remit the said charge in whole or in part if, in the circumstances of any particular case, they consider it reasonable to do so".

15.—(1) Any local health authority may, with the approval of the Minister, and shall to such extent as the Minister may direct, make arrangements for the giving of advice on contraception, the medical examination of persons seeking advice on contraception for the purpose of determining what advice to give, and the supply of contraceptive substances or contraceptive appliances.

Provision of advice, &c., for purposes of family planning in Scotland.

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(2) A local health authority may, with the approval of the Minister, recover from persons to whom advice is given under this section, or to whom substances or appliances are supplied thereunder, or from such persons of any class or description such charges (if any) as the authority consider reasonable, having regard to the means of those persons.

(3) The 1947 Act shall have effect as if this section were included in Part III thereof; and section 21 of that Act (submission by local health authorities of proposals for carrying out their duties under sections 22 to 27 of that Act) shall have effect as if any references therein to those duties included a reference to the functions of local health authorities under this section.

(4) This section applies to Scotland only.

General medical, dental and ophthalmic Services and pharmaceutical Services

Constitution,
&c., of
Executive
Councils in
England and
Wales.

16.—(1) Schedule 1 to this Act shall be substituted for Schedule 5 to the 1946 Act.

(2) Sub-paragraph (c) of paragraph 1 of the said Schedule 1 shall not operate to disqualify a person who, at the coming into operation of this section, holds office as a member of an Executive Council and has the qualifications mentioned in that sub-paragraph from continuing to hold office for the residue of the term for which he was appointed.

(3) In relation to each such Council, the term of office of each of the members thereof appointed by virtue of paragraph 1(b) and (c) of the said Schedule 1 otherwise than in the place of a former member shall, notwithstanding anything in regulations made under paragraph 6 of that Schedule, be such as the Minister may determine.

(4) In relation to each such Council, the term of office of each of the members first appointed by virtue of paragraph 1(f) or (g) of the said Schedule 1 shall be such as the Minister may determine.

(5) In so far as any regulation, appointment or determination made under the said Schedule 5 could have been made under a corresponding provision of the Schedule substituted therefor by this section, it shall not be invalidated by the substitution, but shall have effect as if it had been made under that corresponding provision.

(6) This section does not apply to Scotland.

17.—(1) The services for the testing of sight and the supply of optical appliances which are provided in accordance with arrangements made under section 41 of the 1946 Act by Executive Councils shall, instead of being referred to in that Act as supplementary ophthalmic services, be so referred to as general ophthalmic services, and, accordingly, for the words “supplementary ophthalmic services” in that Act (wherever they occur) and in section 1(4) of the National Health Service Act 1951, there shall be substituted the words “general ophthalmic services”.

PART I
Alteration of references to services provided in accordance with arrangements under section 41 of the 1946 Act.
1951 c. 31.

(2) This section does not apply to Scotland.

18.—(1) The power of the Minister under section 41(4) of the 1946 Act to direct that that section shall cease to apply to an area shall cease to be exercisable, and the functions under that section of Executive Councils shall cease to be exercised on their behalf by Ophthalmic Services Committees (which shall, accordingly, be dissolved).

Provision of ophthalmic services by Executive Councils in England and Wales to be on permanent basis, and facilities for provision thereof to be available at health centres.

(2) Section 43 of the 1946 Act (which enables the Minister to remedy inadequacies in services provided under arrangements in force under Part IV of that Act) shall have effect as if, after paragraph (c) of that section, there were inserted the following:—

“ or

(d) of persons undertaking to provide general ophthalmic services ; ”

and as if the word “ or ”, where occurring immediately before paragraph (c), were omitted.

(3) Section 21 of the 1946 Act (duty of local health authorities to provide, maintain and equip health centres at which facilities for various purposes shall be available) shall be amended as follows:—

(a) in subsection (1), after paragraph (c), there shall be inserted the following paragraph:—

“ (ca) for the provision of general ophthalmic services under Part IV of this Act by medical practitioners having the qualifications prescribed for the purposes of section forty-one of this Act, ophthalmic opticians and dispensing opticians and, on such terms and conditions as may be determined by the Minister, for the provision by persons of each of the descriptions aforesaid of such (if any) other ophthalmic services as may, in the case of a particular health centre, be so determined in relation to persons of that description ” ;

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(b) in subsection (2), at the end of the proviso (which prohibits local health authorities from employing medical or dental practitioners at health centres for the purpose of providing general medical services or general dental services under Part IV of the Act) there shall be added the words “nor shall they employ medical practitioners or opticians at such centres for the purpose of providing general ophthalmic services under the said Part IV”;

and in section 41(1) of that Act, after the word “testing” and after the word “supply”, there shall be inserted the words “whether at a health centre or otherwise”.

(4) This section does not apply to Scotland.

General
ophthalmic
services in
Scotland.

1951 c. 31

19.—(1) The services to be provided in accordance with the arrangements mentioned in section 42 of the 1947 Act shall, instead of being referred to in that Act as supplementary ophthalmic services, be so referred to as general ophthalmic services, and, accordingly, for the words “supplementary ophthalmic services” in that Act (wherever they occur) and in section 1(4) of the National Health Service Act 1951 there shall be substituted the words “general ophthalmic services”.

(2) Subsections (2) and (4) of the said section 42 shall cease to have effect; and the said section shall have effect as if, after subsection (1) thereof, there were inserted the following subsections:—

“(2) Provision shall be made by regulations for the delegation by each Executive Council of such of their functions under this section as may be prescribed to a committee, constituted in the prescribed manner so as to include members appointed by that Council, by medical practitioners having the prescribed qualifications, by ophthalmic opticians and by dispensing opticians, for the areas of that Council and of such other Executive Council or Executive Councils as may be specified in the regulations; and any committee constituted under this subsection shall be known as a Joint Ophthalmic Services Committee.

(2A) Regulations constituting a Joint Ophthalmic Services Committee under subsection (2) above may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient, including provision for the payment of the expenses of the Committee by the constituent Councils thereof; for the application, with such modifications as may be prescribed,

to the Committee of any provision of this Act relating to ophthalmic services ; for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Sixth Schedule to this Act ; and for the transfer of officers and their compensation by the Secretary of State, and the transfer of property and liabilities ”.

(3) Section 43 of the 1947 Act (disqualification of persons providing services under Part IV) shall have effect as if any reference therein to an Executive Council included a reference to a Joint Ophthalmic Services Committee.

(4) Section 44 of the 1947 Act (powers of Secretary of State where services under Part IV are inadequate) shall have effect as if, after paragraph (c) of that section, there were inserted the following:—

“ or

(d) of persons undertaking to provide general ophthalmic services ” ;

and as if the word “ or ”, where occurring immediately before the said paragraph (c), were omitted.

(5) The power to make regulations under the said section 42 shall include power to make regulations providing for the dissolution of any joint committee for ophthalmic services constituted by order under subsection (4) of section 32 of the 1947 Act and (notwithstanding anything in section 73 of that Act, which relates among other things to the revocation of orders) any such regulations may revoke any order made under that subsection and relating to ophthalmic services ; and references in any order or regulations made under the National Health Service (Scotland) Acts 1947 to 1967 to a Joint Ophthalmic Services Committee constituted by virtue of the said section 32(4) shall (except in provisions relating to the constitution or dissolution of such a committee) be construed as including references to a Joint Ophthalmic Services Committee constituted by virtue of subsection (2) of the said section 42 as amended by this section.

(6) References in the National Health Service (Scotland) Acts 1947 to 1967, and in any order or regulations made thereunder, to Ophthalmic Services Committees constituted by virtue of subsection (2) of the said section 42 as originally enacted shall be construed as references to Joint Ophthalmic Services Committees constituted by virtue of subsection (2) of the said section 42 as amended by this section.

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(7) Section 15 of the 1947 Act (health centres) shall have effect as if in subsection (1) thereof, after paragraph (c), there were inserted the following paragraph:—

“(ca) the provision of general ophthalmic services under Part IV of this Act by medical practitioners having the qualifications prescribed for the purposes of section 42 of this Act, ophthalmic opticians and dispensing opticians and, on such terms and conditions as may be determined by the Secretary of State, the provision by persons of each of the descriptions aforesaid of such (if any) other ophthalmic services as may, in the case of a particular health centre, be so determined in relation to persons of that description”;

and in section 42(1) of that Act, after the word “testing” and after the word “supply”, there shall be inserted the words “whether at a health centre or otherwise”.

(8) This section applies to Scotland only.

Redefinition of “dispensing optician” and “ophthalmic optician” for purposes of the 1946 and 1947 Acts.
1958 c. 32.

20.—(1) For the definitions, in section 79(1) of the 1946 Act, of “dispensing optician” and “ophthalmic optician”, there shall be substituted respectively the following definitions:—

“‘dispensing optician’ means a person who is registered in the register kept under section 2 of the Opticians Act 1958 of dispensing opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as dispensing opticians;

‘ophthalmic optician’ means a person registered in either of the registers kept under section 2 of the Opticians Act 1958 of ophthalmic opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as ophthalmic opticians”.

(2) This section shall have effect in Scotland as if, for the reference therein to section 79(1) of the 1946 Act, there were substituted a reference to section 80(1) of the 1947 Act.

Additional dental and pharmaceutical services for whose provision facilities can be made available at health centres and prohibition of employment there of registered pharmacists.

21.—(1) At the end of paragraph (b) of subsection (1) of section 21 of the 1946 Act (which includes amongst the purposes for which facilities can be made available at health centres the provision of general dental services under Part IV of the Act by dental practitioners), there shall be added the words “and, on such terms and conditions as may be determined by the Minister, for the provision by dental practitioners, otherwise than as part of general dental services provided under the said Part

IV, of such (if any) dental treatment and appliances as may be so determined in the case of a particular health centre ”.

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(2) At the end of paragraph (c) of the said subsection (1) (which includes amongst the purposes for which facilities can be made available at health centres the provision of pharmaceutical services under Part IV by registered pharmacists), there shall be added the words “ and, on such terms and conditions as may be determined by the Minister, for the provision by registered pharmacists, otherwise than as part of pharmaceutical services provided under the said Part IV, of such (if any) drugs, medicines and appliances and articles (other than as aforesaid) ordinarily supplied by pharmacists as may be so determined in the case of a particular health centre ”.

(3) A local health authority shall not, in the performance of the duty imposed on them by subsection (2) of the said section 21 to provide staff for health centres, employ registered pharmacists at a particular health centre for the purpose of providing pharmaceutical services under the said Part IV, unless they were doing so on the 22nd March 1968 ; and, if they were doing so on that day, they shall not employ registered pharmacists at that centre for that purpose to a number greater than that to which they employed them there for that purpose on that day.

(4) The foregoing provisions of this section do not apply to Scotland, but section 15(6) of the 1947 Act shall have effect as if the references therein to medical practitioners, general medical services under Part IV of that Act and other personal medical services included—

- (a) references respectively to dental practitioners, general dental services under the said Part IV and other personal dental services ; and
- (b) references respectively to registered pharmacists, pharmaceutical services under the said Part IV and other personal pharmaceutical services.

22.—(1) For section 46 (use of health centres by practitioners) of the 1946 Act there shall be substituted the following section :—

Use of health centres in England and Wales by practitioners.

“ 46. Where a health centre provides facilities for all or any of the purposes specified in paragraphs (a), (b), (c) and (ca) of subsection (1) of section twenty-one of this Act, it shall, subject to regulations and to any determination under that subsection by the Minister, be made available for the purposes in the case of which the facilities are provided on such terms as may be agreed between the Executive Council

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and the local health authority providing the centre or, in default of agreement, as may be determined by the Minister; and the Executive Council may, subject to any such determination as aforesaid, make such charges for the use of the centre by the persons who use it for the last-mentioned purposes as the Council think sufficient for the purpose of defraying the payments made by them to the local health authority, and may recover those charges from those persons”.

(2) This section does not apply to Scotland.

What drugs are to be made available to recipients of general dental services.

23.—(1) Section 38 of the 1946 Act (which requires every Executive Council to make as respects their area arrangements for the supply, amongst other things, of prescribed drugs and medicines to all persons in the area who are receiving general dental services) shall have effect with the substitution, for references to such drugs and medicines, of references to such drugs and medicines as are included in a list for the time being approved for the purposes of that section by the Minister.

(2) This section shall have effect in Scotland as if, for the reference therein to section 38 of the 1946 Act, there were substituted a reference to section 40 of the 1947 Act.

Power of Executive Councils to supply goods and materials to persons providing certain services.

24.—(1) Arrangements made by an Executive Council as respects their area under any of the following provisions of the 1946 Act, namely, section 33 (general medical services), 38 (pharmaceutical services), 40 (general dental services) and 41 (general ophthalmic services) may include provision for the supply by the Council, with the consent of the Minister and on such terms as he and the Treasury may approve, to medical practitioners providing general medical services in the area, persons providing pharmaceutical services therein, dental practitioners providing general dental services therein and persons providing general ophthalmic services therein, as the case may be, of goods or materials prescribed by regulations made by the Minister, being goods or materials which it appears to him it is necessary or expedient for a person providing any such service as aforesaid to have for the purpose of providing that service.

(2) This section shall have effect in Scotland as if, for the references to sections 33, 38, 40 and 41 of the 1946 Act, there were substituted respectively references to sections 34, 40, 39 and 42 of the 1947 Act.

25.—(1) Section 42(6) of the 1946 Act (disqualification for inclusion in lists prepared under Part IV of the 1946 Act and removal therefrom of persons disqualified under provisions in force in Scotland corresponding to provisions of the said Part IV for inclusion in lists prepared under those provisions so in force) shall have effect with the insertion, after the word “Scotland”, of the words “or Northern Ireland”.

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Disqualification of practitioners and others disqualified in Northern Ireland.

(2) Subsection (6) of section 43 of the 1947 Act (which makes in relation to Scotland provision corresponding to that of the said section 42(6)) shall have effect with the substitution, for the words from the beginning of the subsection to the words “under that Part of that Act”, of the words “If under any provisions in force in England and Wales or Northern Ireland corresponding to the provisions of this Part of this Act a person is for the time being disqualified for inclusion in all lists prepared under those provisions”, and the insertion, after the words “subsection (1) of this section”, of the words “that person”.

26.—(1) For the purpose of deciding whether or not to issue a direction under section 42(5) or (8) of the 1946 Act that a person shall not be disqualified for inclusion in a list prepared under Part IV of that Act, the Tribunal constituted in accordance with Schedule 7 to that Act or the Minister, as the case may be, may hold an inquiry, and paragraph (a) of subsection (7) of that section (which specifies matters with respect to which regulations may be made under that subsection) shall have effect as if—

Inquiries in connection with removals of disqualifications of practitioners and others.

- (a) references to that section included references to this section;
- (b) the first two references to the Tribunal included references to the Minister; and
- (c) for the reference to the case of an appeal, there were substituted a reference to the case of an inquiry by, or appeal to, the Minister.

(2) This section shall have effect in Scotland as if, for the references therein to any provision of section 42 and Part IV of, and Schedule 7 to, the 1946 Act, there were substituted references respectively to the corresponding provision of section 43 and Part IV of, and Schedule 8 to, the 1947 Act.

Finance, &c.

27.—(1) For the condition specified in subsection (2) of section 54 of the 1946 Act on satisfaction of which expenditure of a Hospital Management Committee is to be defrayed by the Regional Hospital Board for the area in which the hospital or group of hospitals in question is situated, namely, that the expenditure must be expenditure approved by the Minister in

Approval of expenditure of Hospital Management Committees, Boards of Management and Medical Education Committees by Regional Hospital Boards instead of by the Minister.

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manner prescribed by regulations made by the Minister under the 1946 Act, there shall be substituted the condition that the expenditure must be approved, in such manner, by that Board; and, accordingly, for the said subsection (2) there shall be substituted the following subsection:—

“(2) All expenditure of a Hospital Management Committee approved, in the prescribed manner, by the Regional Hospital Board for the area in which the hospital or group of hospitals in question is situated shall be defrayed by that Board”.

(2) For the condition specified in subsection (2) of section 54 of the 1947 Act on satisfaction of which expenditure of a Board of Management of a hospital or group of hospitals situated in any area, or of the Medical Education Committee for any area, is to be defrayed by the Regional Hospital Board for that area, namely that the expenditure must be approved by the Minister in the manner prescribed by regulations made by the Minister under the 1947 Act, there shall be substituted the condition that the expenditure must be approved, in such manner, by that Regional Hospital Board; and, accordingly, for the said subsection (2) there shall be substituted the following subsection:—

“(2) All expenditure of the Board of Management of a hospital or group of hospitals situated in any area, or of the Medical Education Committee for any area, approved in the prescribed manner by the Regional Hospital Board for that area shall be defrayed by that Regional Hospital Board”.

Accounts of
Regional
Hospital
Boards,
and other
bodies.

28.—(1) Subsections (2) and (3) of section 55 of the 1946 Act (which relate to the accounts of Regional Hospital Boards, Boards of Governors of teaching hospitals, Hospital Management Committees and Executive Councils) shall have effect in relation to the Dental Estimates Board as they have effect in relation to a Regional Hospital Board, and the Minister shall prepare in respect of each financial year, in such form and containing such information as the Treasury may direct, a statement of the accounts of the Dental Estimates Board, and shall transmit it on or before the 30th day of November in each year to the Comptroller and Auditor-General who shall examine and certify it and lay copies of it together with his report thereon before both Houses of Parliament.

(2) The Minister may by regulations make provision generally with respect to the audit under the said subsection (2) of accounts of bodies to which that subsection applies, and in particular for conferring on the auditor of any of those accounts,

such rights of access to, and production of, books, accounts, vouchers or other documents as may be specified in the regulations, and such right, in such conditions as may be so specified, to require from any member or officer, or former member or officer, of any such body, such information relating to the affairs of the body as the Minister may think necessary for the proper performance of the duty of the auditor under that section.

(3) The form of accounts to be kept by any such body under the said section 55(2) and of the annual accounts to be prepared and transmitted to the Minister under the said section 55(3) shall, instead of being such as the Minister may with the approval of the Treasury prescribe, be such as he may, with such approval, direct; and accordingly in the said sections 55(2) and 55(3), for the word "prescribe" in each place where it occurs, there shall be substituted the word "direct".

(4) This section shall have effect in Scotland as if, for subsection (1) thereof, there were substituted the following subsection:—

"(1) Subsections (2) and (3) of section 55 of the 1947 Act (which relate to the accounts of Regional Hospital Boards, Boards of Management and Executive Councils) shall have effect in relation to the Scottish Dental Estimates Board as they have effect in relation to any such Regional Hospital Board, Board of Management or Council; and the Minister shall prepare in respect of each financial year, in such form and containing such information as the Treasury may direct, a statement of the accounts of the Scottish Dental Estimates Board, and shall transmit it on or before the 30th day of November in each year to the Comptroller and Auditor-General who shall examine and certify it and lay copies of it together with his report thereon before both Houses of Parliament".

29.—(1) The Minister may by regulations provide, in the case of all or any of the following bodies that is to say, Regional Hospital Boards, Boards of Governors of teaching hospitals, Hospital Management Committees, Executive Councils, joint committees established for the areas of two or more such Councils under section 31(4) of the 1946 Act, and the Dental Estimates Board, for restricting the making of payments by or on behalf of the body otherwise than on such authorisation and subject to such conditions as may be specified in the regulations, but such provision may be made subject to such exceptions as may be so specified; and those regulations may contain such other provisions as to the making and carrying out by all or

Regulation of financial arrangements of hospital authorities and other bodies.

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any of those bodies of such arrangements with respect to financial matters as the Minister thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.

(2) Without prejudice to the operation of the provisions of any such regulations, the Minister may give to any of the said bodies such directions (which may be specific in character) as to any matter with respect to which regulations may be made under the foregoing subsection as it appears to him is requisite for the purpose of securing that the affairs of the body are conducted, so far as reasonably practicable, in such manner as is mentioned in the foregoing subsection, and a body to whom any such directions are given shall comply therewith.

(3) This section shall have effect in Scotland as if—

- (a) any reference to Boards of Governors of teaching hospitals were omitted ;
- (b) for any reference to a Hospital Management Committee there were substituted a reference to a Board of Management ;
- (c) for any reference to the Dental Estimates Board there were substituted a reference to the Scottish Dental Estimates Board ;
- (d) for any reference to section 31(4) of the 1946 Act there were substituted a reference to section 32(4) of the 1947 Act.

Miscellaneous Provisions

Certificates
for exemption
from
prescription
charges.
1952 c. 25.

30.—(1) Regulations made under section 38(3) of the 1946 Act (which authorises regulations providing for the making and recovery of charges in respect of pharmaceutical services) and regulations made under section 1(1) of the National Health Service Act 1952 (which authorises regulations providing for the making and recovery of charges in respect of the supply, as part of hospital and specialist services under Part II of the 1946 Act, of drugs, medicines and appliances) may each provide for the grant, on payment of such sums as may be thereby prescribed, of certificates conferring on the persons to whom the certificates are granted exemption from charges otherwise exigible under the regulations in respect of drugs, medicines and appliances supplied during such period as may be so prescribed ; and different sums may be so prescribed in relation to different periods.

(2) This section shall have effect in Scotland as if, for the references therein to section 38(3) and Part II of the 1946 Act,

there were substituted references respectively to section 40(3) and Part II of the 1947 Act. PART I

31. The Minister may allow persons to make use (on such terms, including terms as to the payment of charges, as he thinks fit) of any services the provision of which is involved in the provision of hospital and specialist services; and he may, in the case of services the provision of which is so involved, provide them to an extent greater than that necessitated by the provision of hospital and specialist services if he thinks it expedient so to do in order to allow persons to make use of them.

Power of the Minister to make services available and, in certain circumstances, to provide them otherwise than for purposes of hospital and specialist services.

32.—(1) The Minister may sell or give away, or otherwise dispose of, goods the production or manufacture whereof by him is involved in the provision of hospital and specialist services; and he may, in the case of goods such as aforesaid which are prescribed for the purposes of this section by regulations made by the Minister, produce or manufacture them to an extent greater than that necessitated by the provision of such services in order that they may be supplied to persons other than those to whom they are supplied by way of the provision of such services (whether or not the first-mentioned persons are engaged in the provision of other services provided by virtue of the 1946 Act).

Power of the Minister to dispose of goods and, in certain circumstances, to produce or manufacture them otherwise than for purposes of hospital and specialist services.

(2) This section shall have effect in Scotland as if, for the reference therein to the 1946 Act, there were substituted a reference to the 1947 Act.

33.—(1) The Minister may provide invalid carriages for persons appearing to him to be suffering from severe physical defect or disability and, at the request of such a person, may provide for him a vehicle other than an invalid carriage.

Provision of vehicles for persons suffering from physical defect or disability.

(2) The Minister shall have power, in the case of an invalid carriage or other vehicle provided by him for or belonging to any such person as is mentioned in the foregoing subsection, on such terms and subject to such conditions as he may determine,—

- (a) to adapt the vehicle for the purpose of making it suitable for the circumstances of that person;
- (b) to maintain and repair the vehicle;
- (c) to take out insurance policies relating to the vehicle and pay the duty, if any, with which the vehicle is chargeable under the Vehicles (Excise) Act 1962;

1962 c. 13.

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(d) to provide a structure for the keeping of the vehicle therein and provide all material and execute all works necessary for the erection of the structure.

(3) The Minister may, on such terms and subject to such conditions as he may determine, make payments by way of grant towards costs incurred by any such person as is mentioned in subsection (1) above in respect of all or any of the following matters in relation to an invalid carriage or other vehicle provided by the Minister for or belonging to that person, that is to say, the taking of any such action as is referred to in subsection (2) above, the purchase of fuel for the purposes of the vehicle, so far as the cost of the purchase is attributable to duties of excise payable in respect of the fuel, and the taking of instruction in the driving of the vehicle.

(4) Section 3(2) of the 1946 Act (making and recovering of charges in respect of the supply, as part of hospital and specialist services, of certain appliances and, in certain circumstances, in respect of replacement or repair of appliances supplied as part of such services) shall have effect as if any reference to an appliance included a reference to a vehicle and, in relation to a vehicle, any reference to replacement or repair were a reference to replacement thereof or the taking of any such action in relation thereto as is mentioned in subsection (2) above.

(5) Regulations made by the Minister may provide for any incidental or supplementary matter for which it appears to the Minister necessary or expedient to make provision in connection with the taking of any action under subsection (2) above or the making of any payment under subsection (3) above.

(6) The provision of vehicles as mentioned in this section and the taking of any such action as is mentioned in subsection (2) above shall, for the purposes of the 1946 Act, be treated as having been included from 5th July 1948 among hospital and specialist services provided under Part II of that Act.

(7) In this section "invalid carriage" means a mechanically propelled vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and used solely by such a person.

(8) This section shall have effect in Scotland as if, for references therein to the 1946 Act, or any Part or provision thereof, there were substituted respectively references to the 1947 Act and the corresponding Part or provision of that Act.

34.—(1) Section 18 of the 1949 Act (which enables officers of a hospital to which the section applies to be admitted to participate in superannuation benefits provided under section 67(1) of the 1946 Act in like manner as officers of Regional Hospital Boards) shall be extended so that the hospitals to which the section applies shall include a hospital (not vested in the Minister) which is used, in pursuance of arrangements made by the governing body of the hospital with the Board of Governors of a teaching hospital, for the provision of hospital and specialist services; and, accordingly, in subsection (4) of the said section 18, after the words “Regional Hospital Board”, there shall be inserted the words “or the Board of Governors of a teaching hospital”.

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 Superannuation of officers of hospitals outside national health service used for providing hospital and specialist services by agreement with Boards of Governors.

(2) This section does not apply to Scotland.

35.—(1) The Minister may make regulations for the payment by him, but subject to such exceptions or conditions as may be prescribed by the regulations, of compensation to, or in respect of, persons who are, or who but for any such service by them as may be so prescribed would be, the holders of any such place, situation or employment as may be so prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to—

Compensation for loss of employment, &c., attributable to re-organisation of provision of hospital services, &c.

- (a) the occurrence, after the coming into operation of this section, of any of the events mentioned in paragraphs (a) to (c) of section 11(9) of the 1946 Act; or
- (b) the making, after coming into operation of this section, of an order under subsection (2), (3) or (4) of section 31 of that Act, or an order revoking an order made under any of those subsections.

(2) Different regulations may be made under this section in relation to different classes of persons and different circumstances, 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 the Minister) in a worse position than he would have been in if the regulations had been so framed as 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 is to be made and for the determination of all questions arising under the regulations.

(4) This section shall have effect in Scotland as if, in paragraph (a) of subsection (1) thereof, for the reference to paragraphs (a) to (c) of section 11(9) of the 1946 Act, there were

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Payment of allowances and remuneration to members of certain bodies established by or under the 1946 Act and members of certain other bodies in England and Wales.

36.—(1) The Minister may pay—

(a) to members of any of the following bodies constituted under the 1946 Act, that is to say—

(i) the Central Health Services Council, any standing advisory committee constituted under section 2 of that Act to advise the Minister and that Council, any committee appointed by that Council under paragraph 4 of Schedule 1 to that Act and any sub-committee appointed by any such standing advisory committee under the said paragraph 4 ;

(ii) a Regional Hospital Board, Hospital Management Committee, Board of Governors of a teaching hospital and any committee appointed by virtue of paragraph 2(b) of Part IV of Schedule 3 to that Act ;

(iii) an Executive Council, any joint committee established for the area of two or more such Councils under section 31(4) of that Act, the Dental Estimates Board, and any committee appointed by virtue of paragraph 3(b) of Schedule 5 to that Act or paragraph 6(b) of Schedule 1 to this Act ;

(iv) the Medical Practices Committee and the Tribunal constituted under section 42 of that Act ;

(b) to members of a body not so constituted being a body specified in an order made by the Minister as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under the 1946 Act ;

such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Treasury, from time to time determine.

(2) The Minister may pay to members of any of the following bodies, that is to say, the Dental Estimates Board, the Medical Practices Committee, the said Tribunal, and any other body constituted under or by virtue of Part IV of the 1946 Act, being a body specified in an order made for the purposes of this subsection, with the approval of the Treasury, by the Minister, such remuneration as he may, with such approval, from time to time determine.

(3) Allowances shall not be paid under subsection (1) above except in connection with the exercise or performance of such powers or duties, in such circumstances, as may, with the approval of the Treasury, be determined by the Minister.

(4) Any payments made under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Minister may, with the approval of the Treasury, determine.

(5) This section does not apply to Scotland.

37.—(1) The Minister may pay—

(a) to members of any of the following bodies constituted under the 1947 Act, that is to say—

Payment of allowances and remuneration to members of certain bodies established by or under the 1947 Act and members of certain other bodies in Scotland.

(i) the Scottish Health Services Council, any standing advisory committee constituted under section 2 of that Act to advise the Minister and that Council, any committee appointed by that Council under paragraph 4 of Schedule 1 to that Act and any sub-committee appointed by any such standing advisory committee under the said paragraph 4 ;

(ii) a Regional Hospital Board, a Board of Management and any committee appointed by virtue of paragraph 2(b) of Part IV of Schedule 4 to that Act ;

(iii) an Executive Council, any joint committee established for the area of two or more such Councils under section 32(4) of that Act, the Scottish Dental Estimates Board, and any committee appointed by virtue of paragraph 4(b) of Schedule 6 to that Act ;

(iv) the Scottish Medical Practices Committee and the Tribunal constituted under section 43 of that Act ;

(b) to members of a body not so constituted, being a body specified in an order made by the Minister as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under the 1947 Act ;

such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Treasury, from time to time determine.

(2) The Minister may pay to members of any of the following bodies, that is to say, the Scottish Dental Estimates Board, the Scottish Medical Practices Committee, the said Tribunal, and any other body constituted under or by virtue of Part IV of

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the 1947 Act, being a body specified in an order made for the purposes of this subsection, with the approval of the Treasury, by the Minister, such remuneration as he may, with such approval, from time to time determine.

(3) Allowances shall not be paid under subsection (1) above except in connection with the performance of such powers or duties, in such circumstances, as may, with the approval of the Treasury, be determined by the Minister.

(4) Any payments made under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Minister may, with the approval of the Treasury, determine.

(5) This section applies to Scotland only.

Power to confer right of appeal from determination of committee as to medical practitioner's qualifications.

38.—(1) The power conferred by section 41 of the 1946 Act to prescribe the qualifications to be possessed by a medical practitioner shall include power to confer on a person who is dissatisfied with the determination of a committee to whom, in pursuance of regulations made in exercise of the power so conferred, he is required to show that he possesses qualifications, a right of appeal to a committee appointed by the Minister, and to make provision for any matter for which it appears to the Minister to be requisite or expedient to make provision in consequence of the conferring of that right.

(2) Section 21(1) of the 1949 Act (removal of doubts as to powers to prescribe qualifications of medical practitioners) shall have effect with the omission of the words "or to the satisfaction of the Minister acting on the advice of such a committee".

(3) This section shall have effect in Scotland as if, in subsection (1) thereof, for the reference to section 41 of the 1946 Act there were substituted a reference to section 42 of the 1947 Act; and as if, in subsection (2) thereof, for the words "the Minister" there were substituted the words "the Secretary of State".

Power to recover cost of replacing appliances where the replacement is necessitated by lack of care.

39.—(1) Paragraph (b) of section 3(2) of the 1946 Act (which includes amongst the matters in respect of which charges may be imposed by regulations of the Minister, the replacement or repair of an appliance supplied as part of the hospital and specialist services if it is determined in manner prescribed by the regulations that the replacement or repair is necessitated by lack of care on the part of the person supplied) shall be amended by the substitution, for the words "lack of care on the part of the person supplied", of the words "an act or omission of the

person supplied or (if it occurred when he was under sixteen years of age) of his or of the person having charge of him when it occurred,” and paragraph (b) of section 44(1) of that Act (which makes similar provision with respect to dental appliances supplied as part of general dental services and optical appliances supplied as part of general ophthalmic services) shall be similarly amended.

(2) This section shall have effect in Scotland as if, for the references therein to section 3(2) and section 44(1) of the 1946 Act, there were substituted references respectively to section 3(3) and section 45(1) of the 1947 Act.

40.—(1) Where the carrying out of a scheme for the provision by the Minister in pursuance of the 1946 Act or Part VII of the Mental Health Act 1959 of hospital accommodation or other facilities will involve the displacement from any premises of persons residing therein, the Minister may make arrangements with one or more of the following bodies, that is to say, an authority who are a local authority for the purposes of the Housing Act 1957, a housing association within the meaning of that Act, a housing trust within the meaning of that Act, a development corporation established under the New Towns Act 1965 and the Commission for the New Towns, for securing, in so far as it appears to him that there is no other residential accommodation suitable for the reasonable requirements of those persons available on reasonable terms, the provision of residential accommodation in advance of the displacements from time to time becoming necessary as the carrying out of the scheme proceeds.

Accommodation for persons displaced in course of development for purposes of the Acts relating to the national health service or to mental health.
1959 c. 72.
1957 c. 56.
1965 c. 59.

(2) Arrangements made under the foregoing subsection may include provision for the making by the Minister to the body with whom the arrangements are made of payments of such amounts and for such purposes as may be approved by the Treasury.

(3) This section shall have effect in Scotland as if, in subsection (1) thereof,

- (a) for the references to the 1946 Act, Part VII of the Mental Health Act 1959, the Housing Act 1957 and the New Towns Act 1965, there were substituted references respectively to the 1947 Act, Part VII of the Mental Health (Scotland) Act 1960, the Housing (Scotland) Act 1966 and the New Towns (Scotland) Act 1968 ; 1960 c. 61.
1966 c. 49.
1968 c. 16.
- (b) the reference to a housing association within the meaning of the said Act of 1966 included a reference to the Scottish Special Housing Association ;

PART I

1954 c. 50.

- (c) for the words “ a housing trust within the meaning of that Act ”, there were substituted the words “ a housing trust within the meaning of the Housing (Repairs and Rents) (Scotland) Act 1954 ; and
- (d) the reference to the Commission for the New Towns were omitted.

Provision of
practice
accommoda-
tion in
Scotland.

41.—(1) The power conferred on Executive Councils by section 64(2) of the 1947 Act to provide, if authorised by the Minister in certain circumstances, residential accommodation for medical practitioners providing services under Part IV of that Act shall include power to provide, if so authorised in like circumstances, practice accommodation for—

- (a) medical practitioners providing such services as aforesaid, and
- (b) persons providing such other services under the National Health (Scotland) Acts 1947 to 1967 or under this Part of this Act as may be so authorised either generally or in special cases.

(2) In this section “ practice accommodation ” in relation to a person providing services of any kind means accommodation suitable for the provision of services of that kind.

(3) This section applies to Scotland only.

Orders and
regulations.

42.—(1) Any power conferred by this Part of this Act to make an order or regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Any power conferred by this Part of this Act to make regulations shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury.

(3) Any power conferred by this Part of this Act to make an order shall include power exercisable in like manner to vary or revoke an order.

Interpretation
of Part I, and
application of
provisions of
the 1946 and
1947 Acts.

1946 c. 81.

1947 c. 27.

1949 c. 93.

43.—(1) In this Part of this Act, “ the 1946 Act ” means the National Health Service Act 1946 as amended by any subsequent enactment, “ the 1947 Act ” means the National Health Service (Scotland) Act 1947 as amended by any subsequent enactment and “ the 1949 Act ” means the National Health Service (Amendment) Act 1949.

(2) In this Part of this Act, in its application to England and Wales, the expression “ the Minister ” means the Minister

of Health, and any other expression to which a meaning is assigned by the 1946 Act for the purposes of that Act has that meaning also for the purposes of this Part of this Act in its application to England and Wales.

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(3) In this Part of this Act, in its application to Scotland, the expression "the Minister" means the Secretary of State, and any other expression to which a meaning is assigned by the 1947 Act for the purposes of that Act has that meaning also for the purposes of this Part of this Act in its application to Scotland.

(4) In the provisions of the 1946 Act specified in Part I of Schedule 2 to this Act references to that Act shall include references to this Part of this Act in its application to England and Wales, and in section 65 (residential accommodation for staff) of that Act the reference to Part III thereof shall include a reference to this Part of this Act in its application as aforesaid; and in the provisions of the 1947 Act specified in Part II of that Schedule the references to that Act shall include references to this Part of this Act in its application to Scotland, and in section 64 (residential accommodation for staff) of that Act, the reference to Part III thereof shall include a reference to this Part of this Act in such last mentioned application thereof.

PART II

AMENDMENTS CONNECTED WITH LOCAL AUTHORITIES' SERVICES UNDER THE NATIONAL ASSISTANCE ACT 1948

44.—(1) For subsection (1) of section 26 of the National Assistance Act 1948 (provision of accommodation in premises maintained by voluntary organisations), there shall be substituted the following subsections:—

Extension of power, under the National Assistance Act 1948, of local authority to provide accommodation elsewhere than in premises managed by them or another such authority.
1948 c. 29.

"(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, but subject to the next following subsection, a scheme under section twenty-one thereof may provide that a local authority—

(a) may make, in lieu or in supplementation of the provision, in premises managed by them or another local authority, of accommodation of the kind mentioned in paragraph (a) of subsection (1) of the said section twenty-one, arrangements—

- (i) with a voluntary organisation managing any premises, for the provision in those premises of accommodation of that kind;
- (ii) with a person registered under section thirty-seven of this Act in respect of a

PART II

disabled persons' or old persons' home, for the provision in that home of accommodation of that kind ; and

(b) may make, in lieu or in supplementation of the provision, in premises managed by them or another local authority, of accommodation of the kind mentioned in paragraph (b) of the said subsection (1), arrangements with a voluntary organisation managing any premises for the provision in those premises of accommodation of that kind.

(1A) No arrangements shall be made by virtue of paragraph (a) of the foregoing subsection by a local authority with a person who has been convicted of an offence against regulations under section forty of this Act ”.

(2) In subsection (2) of the said section 26 (which requires arrangements under subsection (1) of that section to provide for the making by the local authority of payments to the voluntary organisation with which they are made) for the words “ the organisation ” there shall be substituted the words “ the other party thereto ”.

Promotion,
by local
authorities, of
the welfare of
old people.

45.—(1) A local authority may with the approval of the Minister of Health, and to such extent as he may direct shall, make arrangements for promoting the welfare of old people.

(2) A local authority may recover from persons availing themselves of any service provided in pursuance of arrangements made 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.

(3) A local authority may employ as their agent for the purposes of this section any voluntary organisation having for its sole or principal object, or among its principal objects, the promotion of the welfare of old people.

(4) No arrangements under this section shall provide—

(a) for the payment of money to old people except in so far as the arrangements may provide for the remuneration of old people engaged in suitable work in accordance with the arrangements ;

(b) for making available any accommodation or services required to be provided under the National Health Service Act 1946 or Part I of this Act.

(5) The National Assistance Act 1948 shall have effect as if the following references included a reference to this section, that is to say,— PART II
1948 c. 29.

- (a) the reference, in section 32, to section 29 of that Act ;
- (b) the references, in sections 35, 36, 45, 52 and 58 and Parts I and II of Schedule 3 (except in the first place in paragraph 1(1)), to Part III of that Act ;
- (c) the references, in sections 54, 56 and 59, to that Act.

(6) Subject to the next following subsection, all matters relating to the discharge of the functions of a local authority under this section shall stand referred to the committee established by that authority in pursuance of paragraph 1 of Schedule 3 to the said Act of 1948.

(7) A direction given, before the coming into operation of this section, by the Minister of Health under paragraph 7(1) of the said Schedule 3 that matters relating to, or including matters relating to, the discharge of functions of an authority under section 29 of the said Act of 1948 shall, instead of being referred to the committee established as aforesaid, stand referred to some other committee, shall have effect as if it extended to all matters relating to the discharge of their functions under this section.

(8) Subsection (1) of section 46 of the Local Government Act 1958 c. 55. 1958 shall have effect as if the functions of councils of counties which may, under schemes made under that section, be exercisable by the councils of county districts, included functions under this section of the first mentioned councils.

(9) The Health Visiting and Social Work (Training) Act 1962 c. 33. 1962 shall have effect in relation to functions of local authorities under this section as it does in relation to functions of local authorities under Part III of the National Assistance Act 1948.

(10) Section 31(1) of the National Assistance Act 1948 (which empowers local authorities to make arrangements for the provision of meals and recreation for old people) shall cease to have effect except as respects the councils of county districts.

(11) In this section “local authority” (except where used in the expression “public or local authority”) means the council of a county, county borough or London borough or the Common Council of the City of London, and “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.

PART II

(12) This section shall have effect in Scotland as if, for any reference therein to the Minister of Health, there were substituted a reference to the Secretary of State; as if, for the reference in subsection (4)(b) thereof to the National Health Service Act 1946, there were substituted a reference to the National Health Service (Scotland) Act 1947; as if in subsection (10) thereof the words "except as respects the councils of county districts" were omitted; and as if, for subsection (11) thereof, there were substituted the following subsection—

"(11) In this section "local authority" (except where used in the expression "public or local authority") in relation to a county, including any small burgh situated therein, means the county council, and, in relation to a large burgh, means the town council; "small burgh" and "large burgh" have the same meanings as in the Local Government (Scotland) Act 1947; and "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".

Application
to Isles of
Scilly.
1948 c. 29.

46. Section 66 of the National Assistance Act 1948 (application to the Isles of Scilly) shall have effect as if the reference to that Act included a reference to this Part of this Act.

PART III

NOTIFIABLE DISEASES AND FOOD POISONING

Redefinition
of "notifiable
disease".
1936 c. 49.

47. In section 343(1) of the Public Health Act 1936, for the definition of "notifiable disease" there shall be substituted the following definition:—

"'notifiable disease' means any of the following diseases, namely, cholera, plague, relapsing fever, smallpox and typhus".

Cases of
notifiable
disease
and food
poisoning to
be reported
to local
authority.

48.—(1) If a duly qualified medical practitioner becomes aware, or suspects, that a patient whom he is attending within the district of a local authority is suffering from a notifiable disease or from food poisoning, he shall unless he believes, and has reasonable grounds for believing, that some other such practitioner has complied with this subsection with respect to the patient, forthwith send to the medical officer of health of that district a certificate stating—

- (a) the name, age and sex of the patient and the address of the premises where the patient is;
- (b) the disease or, as the case may be, particulars of the poisoning from which the patient is, or is suspected

to be, suffering and the date, or approximate date, of its onset ; and

- (c) if the premises aforesaid are a hospital, the day on which the patient was admitted thereto, the address of the premises from whence he came there and whether or not, in the opinion of the person giving the certificate, the disease or poisoning from which the patient is, or is suspected to be, suffering was contracted in the hospital.

(2) Where the local authority within whose district are situate premises whose address is, by virtue of paragraph (a) of the foregoing subsection, specified in a certificate sent under that subsection are not a local health authority, the medical officer of health who receives the certificate shall, on the day of its receipt (if possible) and in any case within forty-eight hours after its receipt, send a copy thereof—

- (a) to the local health authority within whose area those premises are situate ; and
- (b) if the certificate is given with respect to a patient in hospital who came there from premises outside the district of the local authority within whose district the hospital is situate, and the certificate states that the patient did not contract the disease or poisoning in the hospital, to the medical officer of health of the district within which are situate the premises from which the patient came and, if the local authority for that district is not a local health authority and the district is not within the area of the health authority within whose area the hospital is situate, to the local health authority within whose area those premises are situate.

(3) Where the local authority within whose district are situate premises whose address is, by virtue of paragraph (a) of subsection (1) above, specified in a certificate sent under that subsection, are a local health authority, then, if the certificate is given with respect to a patient in hospital who came there from premises outside that district and the certificate states that the patient did not contract the disease or poisoning in the hospital, the medical officer of health who receives the certificate shall, on the day of its receipt (if possible) and in any case within forty-eight hours after its receipt, send a copy thereof—

- (a) to the medical officer of health of the district within which are situate the premises from which the patient came ; and
- (b) if the local authority for that district are not a local health authority, to the local health authority within whose area the premises are situate.

PART III

(4) A person who fails to comply with an obligation imposed on him by subsection (1) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £10.

(5) In this section, "hospital" means any institution for the reception and treatment of persons suffering from illness, any maternity home and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and "illness" includes mental disorder within the meaning of the Mental Health Act 1959 and any injury or disability requiring medical, surgical or dental treatment or nursing.

1959 c. 72.

Supply of forms for purposes of section 48.

49. A local authority shall, upon application, supply forms of certificate for use under the last foregoing section free of charge to any medical practitioner practising in their district.

Fees for certificates under section 48.

50.—(1) Subject to any exceptions for which provision may be made by the order, the Minister of Health may by order direct that a local authority shall pay to a medical practitioner for each certificate duly sent by him under section 48 of this Act a fee of such amount as may be prescribed by the order.

(2) Different fees may be prescribed by an order under this section in relation to different circumstances.

(3) For the avoidance of doubt it is hereby declared that the fact that a medical practitioner who gives a certificate under section 48 of this Act holds the office to whose holder the certificate is required to be sent does not disentitle him to payment of the fee (if any) payable for the certificate.

(4) An order under this section may be varied or revoked by a subsequent order of the Minister of Health.

(5) The powers 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.

Reimbursement of fees in certain cases.

51. Where, in pursuance of section 48(2) of this Act, a copy of a certificate is sent by the medical officer of health of the district of a local authority to the local health authority within whose area are situate the premises whose address is, by virtue of subsection (1)(a) of that section, specified in the certificate, the latter authority shall pay to the former the amount of the fee (if any) paid by the latter in pursuance of the last foregoing section for the certificate.

52.—(1) No order shall be made after the date of the coming into operation of this section under section 147(1) of the Public Health Act 1936 (power of local authority to extend category of notifiable diseases) nor shall an order under that section be varied after that date save by excluding a disease from it ; but a local authority may by order (in relation to which the proviso to subsection (1) and subsections (2) to (4) of that section shall have effect as they have effect in relation to an order under subsection (1) thereof) direct that an infectious disease other than one specified in section 47 of this Act or one to which regulations under section 143 of that Act relate shall, for the purpose of the application to their district of such of the provisions of that Act, the Public Health Act 1961 and this Act relating to notifiable diseases as are specified in the order, be deemed to be such a disease.

PART III
Powers of local authority to extend category of notifiable diseases.
1936 c. 49.

1961 c. 64.

(2) Any reference in an order under the said section 147 to the provisions of Part V of the Public Health Act 1936 relating to the notification of disease shall be construed as a reference to section 48 of this Act.

53. Section 38(1) of the Public Health Act 1961 (power of a justice of the peace to order the medical examination of a person believed to be, or to have been, suffering from a notifiable disease) shall be amended by the insertion, after the word "disease", of the words "or, though not suffering from such a disease, is carrying an organism that is capable of causing it".

Power of Justice of peace to order examination of person believed to be a carrier of a notifiable disease.

54.—(1) If a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on a written certificate issued by the medical officer of health of any district,—

Power of justice of peace to order medical examination of group of persons believed to comprise a carrier of a notifiable disease.

(a) that there is reason to believe that one of a group of persons, though not suffering from a notifiable disease, is carrying an organism that is capable of causing it ; and

(b) that in the interest of those persons or their families, or in the public interest, it is expedient that those persons should be medically examined ;

the justice may order them to be medically examined by the medical officer of health or by a registered medical practitioner nominated by him.

(2) An order under this section may be combined with a warrant under section 287(2) of the Public Health Act 1936 authorising the medical officer of health to enter any premises.

PART III
Construction
of references
to medical
examination.
1961 c. 64.

55. In section 38(1) of the Public Health Act 1961 and in the last foregoing section, references to a person's being medically examined shall be construed as including references to his being submitted to bacteriological and radiological tests and similar investigations.

Construction
of section 143
of Public
Health Act
1936.
1936 c. 49.

56. In section 143 of the Public Health Act 1936 (which authorises the Minister of Health, with a view to the treatment of certain diseases and for preventing their spreading, to make regulations including provision applying, to diseases to which the regulations relate, any enactment relating to the notification of disease or to notifiable diseases) the reference to any such enactment shall be construed as including references to any such enactment as amended by this Act and to sections 48 to 51 (both inclusive) and 54 of this Act.

Interpretation
of Part III.

57. In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“local authority” and “district” have the same meanings as in the Public Health Act 1936;

“local health authority” means an authority that is a local health authority for the purposes of Part III of the National Health Service Act 1946;

“notifiable disease” means any of the diseases specified in section 47 of this Act.

1946 c. 81.

Extent of Part III.

58. This Part of this Act does not apply to Scotland.

PART IV

MISCELLANEOUS MATTERS

Provision of general Application

Extension of
power of user
by Crown of
patented
invention to
user for certain
health services.
1949 c. 87.

59.—(1) The powers exercisable in relation to a patented invention under section 46 of the Patents Act 1949 by a government department or a person authorised by a government department shall include power to make, use, exercise and vend the invention for the production or supply of drugs and medicines required for the provision of pharmaceutical services, general medical services or general dental services, and prescribed for the purposes of this section by regulations made by the Minister of Health and the Secretary of State acting jointly; and any reference in that section or in section 47 or 48 of the Patents Act 1949 to the services of the Crown shall be construed accordingly.

PART IV

(2) In the foregoing subsection references to pharmaceutical services, general medical services and general dental services shall be construed as referring to services of those respective kinds under Part IV of the National Health Service Act 1946, Part IV of the National Health Service (Scotland) Act 1947 or the corresponding provisions of the law in force in Northern Ireland or the Isle of Man. 1946 c. 81.
1947 c. 27.

(3) The power conferred by subsection (1) above to make regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) This section shall extend to the Isle of Man.

Provisions applicable to England and Wales and Scotland

60.—(1) The Nurseries and Child-Minders Regulation Act 1948 shall be amended as follows. Amendment of
Nurseries and
Child-Minders
Regulation
Act 1948.
1948 c. 53.

(2) Section 1(1)(a) (by virtue whereof local health authorities are required to keep registers of premises in their areas, other than premises wholly or mainly used as private dwellings, where children are received to be looked after for the day or a substantial part thereof or for any longer period not exceeding six days) shall have effect with the substitution, for the words “ a substantial part thereof ”, of the words “ for a part or parts thereof of a duration, or an aggregate duration, of two hours or longer ”; but the reception, before the expiration of the period of three months beginning with the day on which this section comes into operation, of a child in any premises as mentioned in section 1(1)(a) or by any person as mentioned in section 1(1)(b) shall not constitute an offence under section 4(1) or (2), as the case may be, if it would not have constituted an offence thereunder if this subsection had not been enacted.

(3) Section 4(2) (which penalises, amongst other things, the reception by a person as mentioned in section 1(1)(b) of children exceeding two in number and coming from more than one household without his being a relative of theirs and registered under section 1) shall, as from the expiration of the period aforesaid, have effect with the substitution, for the words “ children of whom he is not a relative, and (a) the number of the children exceeds two, and (b) the children come from more than one household ”, of the words “ a child of whom he is not a relative ”.

(4) The punishment that may be imposed on a person guilty of an offence under section 4, being an offence committed after the coming into operation of this section, shall, instead of being

PART IV

a fine not exceeding £25 or, in the case of a second or subsequent offence, imprisonment for a term not exceeding one month or a fine not exceeding £25 or both, be a fine not exceeding £50 or, in the case of a second or subsequent offence, imprisonment for a term not exceeding three months or a fine not exceeding £100 or both, and the proviso to subsection (4) of that section (which limits to £5 the punishment that may be imposed in the case of a first offence under subsection (5) of that section) shall, except in relation to an offence committed before the coming into operation of this section, cease to have effect.

(5) In section 1(3) (by virtue whereof a local health authority may refuse to register premises if, inter alia, they are satisfied that the premises are not fit to be used for the reception of children), after the word "fit" (where last occurring), there shall be inserted the words "(whether because of the condition thereof or of the equipment thereof or for any reason connected with the situation, construction or size thereof or with other persons therein)".

(6) In section 1(4) (by virtue whereof a local health authority may refuse to register a person if, inter alia, they are satisfied that the premises in which the children are received or are proposed to be received are not fit, whether because of the condition thereof or for any reason connected with other persons therein, to be used for the purpose), after the word "thereof", there shall be inserted the words "or of the equipment thereof" and after the words "connected with" there shall be inserted the words "the situation, construction or size thereof or with".

(7) An application for the registration under section 1 of any premises shall be of no effect unless it contains a statement with respect to each person employed or proposed to be employed in looking after children at the premises, and each person who has attained the age of sixteen years and (though not so employed or proposed to be so employed) is normally resident at the premises, whether or not—

- (a) there has been made against him any such order as is mentioned in paragraph (a), (b) or (e) of section 6 of the Children Act 1958 (disqualification for keeping foster children);
- (b) he has been convicted as mentioned in paragraph (c) thereof;
- (c) his rights and powers with respect to a child have been vested as mentioned in paragraph (d) thereof; or
- (d) an order has been made under section 43 of the Adoption Act 1958 (removal of protected children from

1958 c. 65.

1958 c. 5
(7 & 8 Eliz. 2).

unsuitable surroundings) for the removal of a child from his care ;

and an application for the registration under section 1 of a person shall be of no effect unless it contains a similar statement with respect to him, each person employed or proposed to be employed by him in looking after children and each person other than himself who has attained the age of sixteen years and (though not so employed or proposed to be so employed) is normally resident at the premises in which the children are received or proposed to be received ; and a person who, in any such application as aforesaid, makes, with respect to himself or another, any such statement as aforesaid which is false and is known to him to be false or recklessly makes, with respect to himself or another, such a statement which is false shall be guilty of an offence and liable on summary conviction, to a fine not exceeding £100 or to imprisonment for a term not exceeding six months or to both.

(8) Section 2(2) (which empowers a local health authority to order that the number of children that may be received by a person in his home as mentioned in section 1(1)(b), together with any other children therein, shall not exceed such number as may be specified) shall have effect with the omission of the words "together with any other children in his home" and the addition at the end thereof of the words "and in making an order under this subsection an authority shall have regard to the number of any other children who may from time to time be in the home".

(9) The power of the local health authority under the said section 2(2) to limit the number of children that may be received by a person in his home as mentioned in section 1(1)(b) shall include power by order to impose requirements for securing—

- (a) that there shall be available, for looking after the children received by him as so mentioned, persons adequate in number and in qualifications or experience ;
- (b) that the premises in which the children are received shall be kept safe and adequately maintained and the equipment thereof shall be adequately maintained ;
- (c) that there shall be adequate arrangements for feeding the children so received and that an adequate and suitable diet shall be provided for them ;
- (d) that records shall be kept in relation to the children so received containing such particulars as may be specified by the authority.

PART IV

(10) In paragraph (d) of section 2(4) (which specifies, as one of the objects for the securing of which, as respects registered premises, requirements may be imposed by a local health authority, that the premises and the equipment thereof shall be adequately maintained), after the word “premises”, there shall be inserted the words “shall be kept safe and adequately maintained”.

(11) Section 7 (inspection) shall have effect—

(a) as if, at the end of subsection (1), there were added the words “and may at all reasonable times enter the home of a person registered under section one of this Act by the authority, and may inspect it and any children received there as mentioned in paragraph (b) of subsection (1) of section one of this Act, the arrangements for their welfare and any records relating to them kept in pursuance of this Act”; and

(b) as if, in subsection (2), the words “is refused admission to the home of a person registered under section one of this Act, or” and the words “admission has been refused, or, as the case may be, that” were omitted.

(12) The maximum amount of the fee that, under section 3(3) may be demanded by a local health authority for the issue of a copy of a certificate of registration under section 1 shall be increased from two shillings and sixpence to five shillings, and accordingly, in that subsection, for the words “two shillings and sixpence” there shall be substituted the words “five shillings”.

(13) Section 12 (which authorises the payment out of moneys provided by Parliament of any increase attributable to the Act in grants payable under any other Act, and is spent) shall cease to have effect.

Welfare foods.

1964 c. 60.

61.—(1) The Minister of Health and the Secretary of State shall together have power (exercisable by order made by statutory instrument) to extend the definition of “welfare food” in section 4(2) of the Emergency Laws (Re-enactments and Repeals) Act 1964 (which empowers them to regulate or prohibit the acquisition, distribution, &c., of any such food and to control the price to be charged for it), but a statutory instrument containing an order by which this power is exercised shall not be made unless a draft of the instrument has been laid before Parliament and has been approved by a resolution of each House of Parliament.

(2) Any expenses incurred by the said Minister or the Secretary of State in connection with the operation of a scheme

administered by a government department for the provision of any welfare food as for the time being defined by the said section 4(2) shall be defrayed out of moneys provided by Parliament. PART IV

62.—(1) In the Public Health Act 1936 references to vessels, and in the Food and Drugs Act 1955 references to ships, shall be construed as including references to hover vehicles, that is to say, vehicles designed to be supported on a cushion of air; and in each of those Acts “master” shall be construed accordingly. Hover vehicles brought within scope of Acts relating to public health and food and drugs. 1936 c. 49. 1955 c. 16 (4 & 5 Eliz. 2.).

(2) This section shall have effect in Scotland as if, for the references therein to the Public Health Act 1936 and the Food and Drugs Act 1955, there were substituted references respectively to the Public Health (Scotland) Acts 1897 to 1945 and the Food and Drugs (Scotland) Act 1956. 1956 c. 30.

63.—(1) The Minister of Health may, either directly or by entering into arrangements with others,— Provision of instruction for officers of hospital authorities and other persons employed, or contemplating employment, in certain activities connected with health or welfare.

(a) provide, for persons employed or having it in contemplation to be employed as officers or servants of a Regional Hospital Board constituted under the 1946 Act or the 1947 Act or a Board of Governors of a teaching hospital, such instruction as appears to him conducive to securing their efficiency as such officers or servants ;

(b) provide, for persons (other than such as are mentioned in the foregoing paragraph) of such class as may be specified in regulations made by him with the approval of the Treasury who are employed, or have it in contemplation to be employed, in an activity to which this paragraph applies, such instruction as appears to him conducive to the efficient carrying on of that activity ; and

(c) provide material and premises necessary for, or in connection with, the provision of any such instruction as aforesaid.

(2) Paragraph (b) of the foregoing subsection applies to the following activities, namely—

(a) an activity involved in the provision of a service which must or may, by virtue of the relevant enactments, be provided or the provision of which must or may, by virtue of those enactments, be secured by the Minister of Health or the council of a county, county borough or London borough or the Common Council of the City of London or the Greater London Council ;

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- (b) the provision of a service for the provision of which an Executive Council is, by virtue of Part IV of the 1946 Act, under a duty to make arrangements and an activity involved in or connected with the provision of such a service ;
- (c) an activity involved in the provision of a service which must or may, by virtue of the relevant enactments, be provided or the provision of which must or may, by virtue of those enactments, be secured by the Secretary of State or a county council or a town council of a large burgh or a joint county council ;
- (d) the provision of a service for the provision of which an Executive Council is, by virtue of Part IV of the 1947 Act, under a duty to make arrangements and an activity involved in or connected with the provision of such a service ; and
- (e) an activity involved in the provision of a service under the law in force in Northern Ireland corresponding to a service mentioned in paragraph (a) above ;
- (f) the provision of a service under the law in force in Northern Ireland corresponding to a service mentioned in paragraph (b) above, and an activity involved in or connected with the provision of such a service.

(3) The Minister of Health may allow instruction provided under this section to be given to persons other than persons described in subsection (1) above, and he may under this section provide instruction to an extent greater than that necessitated by the requirements of persons so described if he thinks it expedient so to do in order to allow such other persons to receive such instruction.

(4) Subject to and in accordance with such directions as may be given by the Minister of Health, the powers conferred on him by subsection (1) above may be exercised, on his behalf, by a Regional Hospital Board constituted under the 1946 Act, a Board of Governors of a teaching hospital or an Executive Council constituted under the 1946 Act ; and the power conferred on a Regional Hospital Board by this subsection may, subject to and in accordance with such directions as may be given by the said Minister or the Regional Hospital Board, be exercised, on behalf of the Board, by a Hospital Management Committee appointed by them.

(5) Instruction under this section may be provided on such terms, including terms as to payment of charges, as the Minister of Health thinks fit.

(6) The Minister of Health may, with the approval of the Treasury,—

(a) make grants and pay fees to persons or bodies with whom arrangements under subsection (1) above are made for the provision of instruction under this section ; and

(b) pay travelling and other allowances to persons availing themselves of such instruction.

(7) The power conferred by subsection (1) above to make regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this section—

“ Board of Governors of a teaching hospital ” and “ Hospital Management Committee ” have the same meaning as in the National Health Service Act 1946 ; 1946 c. 81.

“ 1946 Act ” means the National Health Service Act 1946 :

“ 1947 Act ” means the National Health Service (Scotland) Act 1947 ; 1947 c. 27.

“ the relevant enactments ” means—

(a) in relation to subsection (2)(a) above, section 48 of the Education Act 1944, the 1946 Act, Part III of the National Assistance Act 1948, section 4 of the Education (Miscellaneous Provisions) Act 1953, the National Health Service (Family Planning) Act 1967 and Part I of this Act and section 45 thereof ; 1944 c. 31.
1948 c. 29.
1953 c. 33.
1967 c. 39.

(b) in relation to subsection (2)(c) above, the 1947 Act, Part III of the National Assistance Act 1948, sections 58 and 59 of the Education (Scotland) Act 1962 and Part I of this Act and section 45 thereof. 1962 c. 47.

(9) This section shall have effect in Scotland as if, for any reference therein (other than a reference in subsection (2) thereof) to the Minister of Health, there were substituted a reference to the Secretary of State ; and as if in subsection (4) thereof,—

(a) for references to the 1946 Act, there were substituted references to the 1947 Act ;

(b) for the reference to a Hospital Management Committee, there were substituted a reference to a Board of Management constituted under the 1947 Act ; and

(c) the reference to a Board of Governors of a teaching hospital were omitted.

(10) Section 48 of the 1946 Act and section 48 of the 1947 Act shall cease to have effect.

PART IV
 Financial assistance by the Minister of Health and the Secretary of State to certain voluntary organisations.

64.—(1) The Minister of Health may, upon such terms and subject to such conditions as he may, with the approval of the Treasury, determine, give to a voluntary organisation to which this section applies assistance by way of grant or by way of loan, or partly in the one way and partly in the other.

(2) This section applies to a voluntary organisation whose activities consist in, or include, the provision of a service similar to a relevant service, the promotion of the provision of a relevant service or a similar one, the publicising of a relevant service or a similar one or the giving of advice with respect to the manner in which a relevant service or a similar one can best be provided.

(3) In this section—

1946 c. 81.
 1948 c. 29.
 1967 c. 39.

(a) “the relevant enactments” means the National Health Service Act 1946, Part III of the National Assistance Act 1948, the National Health Service (Family Planning) Act 1967 and Part I of this Act and section 45 thereof;

(b) “relevant service” means a service which must or may, by virtue of the relevant enactments, be provided or the provision of which must or may, by virtue of those enactments, be secured by the Minister of Health or the council of a county, county borough or London borough or the Common Council of the City of London or a service for the provision of which an Executive Council is, by virtue of Part IV of the National Health Service Act 1946, under a duty to make arrangements; and

(c) “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.

(4) This section shall have effect in Scotland as if, in subsection (1) thereof, for the reference to the Minister of Health, there were substituted a reference to the Secretary of State; and as if, in subsection (3) thereof, for paragraphs (a) and (b), there were substituted the following paragraphs:—

1947 c. 27.

(a) ‘the relevant enactments’ means the National Health Service (Scotland) Act 1947, Part III of the National Assistance Act 1948 and Part I of this Act and section 45 thereof;

(b) ‘relevant service’ means a service which must or may, by virtue of the relevant enactments, be provided or the provision of which must or may, by virtue of those enactments, be secured by the Secretary of State or by a county council or by the town

council of a large burgh ; or a service for the provision of which an Executive Council is, by virtue of Part IV of the National Health Service (Scotland) Act 1947, under a duty to make arrangements ; and ” .

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65.—(1) A local authority may give assistance by way of grant or by way of loan, or partly in the one way and partly in the other, to a voluntary organisation whose activities consist in, or include, the provision of a service similar to a relevant service, the promotion of the provision of a relevant service or a similar one, the publicising of a relevant service or a similar one or the giving of advice with respect to the manner in which a relevant service or a similar one can best be provided, and so may the Greater London Council.

Financial and other assistance by local authorities to certain voluntary organisations.

(2) A local authority may also assist any such voluntary organisation as aforesaid by permitting them to use premises belonging to the authority on such terms as may be agreed, and by making available furniture, vehicles or equipment (whether by way of gift, or loan or otherwise) and the services of any staff who are employed by the authority in connection with the premises or other things which they permit the organisation to use, and the Greater London Council may assist in like manner a voluntary organisation with whom arrangements have been made by them under section 27 of the National Health Service Act 1946 for the provision by the organisation of ambulances and other transport and of staff therefor.

1946 c. 81.

(3) In this section—

- (a) “ local authority ” (except where used in the expression “ public or local authority ”) means the council of a county, county borough or London borough or the Common Council of the City of London ;
- (b) “ the relevant enactments ” means Part III of the National Health Service Act 1946, Part III of the National Assistance Act 1948, section 3 of the Disabled Persons (Employment) Act 1958, the National Health Service (Family Planning) Act 1967 and Part I of this Act and section 45 thereof ;
- (c) “ relevant service ” means a service the provision of which must or may, by virtue of the relevant enactments, be secured by a local authority ; and
- (d) “ 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.

(4) The foregoing provisions of this section shall have effect in place of the following provisions authorising the giving of

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1946 c. 81. assistance to voluntary organisations, namely, sections 22(5) and 28(3) and (so far as it relates to such organisations) section 63 of the National Health Service Act 1946, sections 26(6) and 30(2) of the National Assistance Act 1948, sections 45(4) and 46(3) of the London Government Act 1963 and, except in so far as it applies to the councils of county districts, section 31(3) of the National Assistance Act 1948.

1958 c. 55. (5) Subsection (1) of section 46 of the Local Government Act 1958 shall have effect as if the functions of councils of counties which may, under schemes made under that section, be exercisable by the councils of county districts, included functions under this section of the first mentioned councils.

(6) This section (except in so far as it relates to the Greater London Council) shall have effect in Scotland as if for subsections (3), (4) and (5) thereof, there were substituted the following subsections:—

“(2A) Without prejudice to the powers conferred on local authorities by the foregoing provisions of this section, a council to which this subsection applies may assist any voluntary organisation whose activities consist in or include the provision of meals or recreation for old people to provide such meals or such recreation by contributing to the funds of the organisation, by permitting them to use premises belonging to the council on such terms as may be agreed, and by making available furniture, vehicles or equipment (whether by way of gift or loan or otherwise) and the services of any staff who are employed by the council in connection with the premises or other things which they permit the organisation to use.

This subsection applies to the town councils of small burghs and to district councils.

(2B) In this section—

- 1947 c. 43. (a) “local authority” (except where used in the expression “public or local authority”) means, in relation to a county including any small burgh situated therein, the county council, and, in relation to a large burgh, the town council ;
- (b) “large burgh” and “small burgh” have the same meanings as in the Local Government (Scotland) Act 1947, and “district” means a district constituted by a district council scheme within the meaning of section 38 of that Act ;
- 1947 c. 27. (c) “the relevant enactments” means Part III of the National Health Service (Scotland) Act 1947, Part III of the National Assistance Act 1948, section 3

of the Disabled Persons (Employment) Act 1958 and Part I of this Act and section 45 thereof ; PART IV
1958 c. 33.

- (d) "relevant service" means a service the provision of which must or may, by virtue of the relevant enactments, be secured by a local authority ; and
- (e) "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.

(2c) This section shall have effect in place of the following provisions authorising the giving of assistance to voluntary organisations, namely, sections 22(3) and 27(3) and (so far as it authorises local health authorities to give assistance to such organisations) section 63 of the National Health Service (Scotland) Act 1947, and section 26(6), 30(2) and 31(3) of the National Assistance Act 1948 ". 1947 c. 27.
1948 c. 29.

66.—(1) The Minister of Health may, in accordance with arrangements made by him with the approval of the Treasury, make payments, at such rates as may be determined under those arrangements, to persons of such class or description as may be so determined in respect of travelling expenses necessarily incurred by them in making visits to patients for the time being detained under the Mental Health Act 1959 in special hospitals. Payments in respect of travelling expenses of visitors to patients in special hospitals and State hospitals.
1959 c. 72.

(2) The foregoing subsection shall have effect in Scotland, as if, for the references therein to the Minister of Health, the Mental Health Act 1959 and special hospitals, there were substituted references respectively to the Secretary of State, the Mental Health (Scotland) Act 1960 and State hospitals. 1960 c. 61.

67.—(1) The Minister of Health may—

- (a) purchase and store and, on such terms as may be agreed between him and them, supply to authorities which are local health authorities for the purposes of Part III of the National Health Service Act 1946 any goods or materials required by them for the discharge of their functions as local health authorities ; Power of the Minister of Health and the Secretary of State to purchase goods for supply to local authorities and Executive Councils.
1946 c. 81.
- (b) purchase and store and, on such terms as he may determine, supply to Executive Councils any goods or materials required by them for the discharge of their functions under section 24 of this Act ;
- (c) purchase and store and, on such terms as may be agreed between him and them, supply to local authorities any goods or materials required by them for the discharge

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1948 c. 29.

of their functions under any of the following enactments, namely, sections 21, 29 and 31 of the National Assistance Act 1948 and section 45 of this Act ;

1958 c. 55.

(d) purchase and store and, on such terms as may be agreed between him and them, supply to councils of county districts by which functions of councils of counties are for the time being exercisable by virtue of a scheme made under section 46 of the Local Government Act 1958 any goods or materials required by those councils of county districts for the discharge of such of the said functions as are for the time being so exercisable by them ;

1944 c. 31.
1953 c. 33.

(e) purchase and store and, on such terms as may be agreed between him and them, supply to local education authorities any goods or materials required by them for the discharge of their functions under section 48 of the Education Act 1944 (medical inspection and treatment of pupils) or section 4 of the Education (Miscellaneous Provisions) Act 1953 (dental treatment of pupils).

(2) The foregoing subsection shall have effect in Scotland as if—

1946 c. 81.
1947 c. 27.

(a) for any reference therein to the Minister of Health, there were substituted a reference to the Secretary of State ;
(b) for the reference in paragraph (a) thereof to Part III of the National Health Service Act 1946, there were substituted a reference to Part III of the National Health Service (Scotland) Act 1947 ;

1962 c. 47.

(c) paragraph (d) thereof were omitted ;
(d) for the reference in paragraph (e) thereof to section 48 of the Education Act 1944, there were substituted a reference to sections 58 and 60 of the Education (Scotland) Act 1962 ; and
(e) for the reference in paragraph (e) thereof to section 4 of the Education (Miscellaneous Provisions) Act 1953, there were substituted a reference to sections 59 and 60 of the said Act of 1962.

Provisions applicable to England and Wales only

Amendment of
Mental Health
Act 1959 in case
where functions
under Part IV
thereof of
county council
are delegated.
1959 c. 72.

68.—(1) In relation to a county district whereof the council are, under a delegation scheme made under section 46 of the Local Government Act 1958, exercising the functions under Part IV of the Mental Health Act 1959 of the council of a county,—

(a) the powers exercisable by the council of the district by virtue of section 47(2)(c) of the last-mentioned Act

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(order for discharge of patient received into guardianship may be made by responsible medical officer, responsible local health authority or nearest relative of patient) may be exercised by any three or more members of the council authorised by them in that behalf ;

(b) any reference in the said Part IV to the responsible medical officer shall, in relation to a patient received into guardianship under Part IV of that Act, be construed as referring to the medical officer of health of the district or any other medical officer authorised by the council of the district to act (either generally or in any particular case or for any particular purpose) as the responsible medical officer.

(2) Section 56(3) of the said Act of 1959 (which includes, amongst the matters for which regulations may be made under that section, the determination of the manner in which functions under Part IV of that Act are to be exercised by managers of hospitals, local health authorities or regional hospital boards and the specification of the circumstances in which, and the conditions subject to which, such functions may be performed by officers of, or other persons acting on behalf of the managers, authorities or boards) shall have effect as if the references to such authorities included references to the councils of county districts by whom their functions under that Part of that Act are exercisable under such a delegation scheme as aforesaid.

(3) This section does not apply to Scotland.

69. Section 172 of the Public Health Act 1936 (removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract) is hereby repealed.

Repeal of section 172 of the Public Health Act 1936. 1936 c. 49.

70.—(1) Where the local authority within whose district a common lodging-house is situate are not a local health authority, the medical officer of health of the district shall, on the day on which he receives a notice under section 242 of the Public Health Act 1936 (duty of keeper of common lodging-house to notify cases of infectious disease) from the keeper of such a lodging house (if possible) and in any case within forty-eight hours after the receipt of the notice, send a copy thereof to the local health authority within whose area that lodging-house is situate.

Copy of notice under section 242 of the Public Health Act 1936 to be sent to health authority if it is not local authority.

(2) In this section “local authority” and “district” have the same meanings as in the said Act of 1936, and “local health authority” means an authority that is a local health authority for the purposes of Part III of the National Health Service Act 1946 c. 81.

(3) This section does not apply to Scotland.

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Provisions applicable to Scotland only

Compensation for stopping employment to prevent spread of disease in Scotland.
1956 c. 30.

71.—(1) With a view to preventing the spread of—

(a) any infectious disease, or

(b) any food poisoning to which section 22(1) of the Food and Drugs (Scotland) Act 1956 applies,

a person who is at work may be requested by the medical officer of health for the place where the person is at work, by notice in writing, to discontinue his work.

(2) The local authority for the place in question shall compensate a person who has suffered any loss in complying with a request under this section; and any dispute arising under this subsection, whether as to the fact of loss or as to the amount of any compensation, shall be determined by a single arbiter, who, failing agreement between the parties, shall be appointed by the sheriff.

(3) In this section “local authority” in relation to a county, including any small burgh situated therein, means the county council, and, in relation to a large burgh, means the town council; and “small burgh” and “large burgh” have the same meanings as in the Local Government (Scotland) Act 1947.

(4) This section applies to Scotland only.

1947 c. 43.

Powers of sheriff, &c. to order a medical examination in Scotland.

72.—(1) If the sheriff (acting, if he deems it necessary, *ex parte*) is satisfied, on a written certificate issued by the medical officer of health for any district—

(a) that there is reason to believe that some person in the district is or has been suffering from an infectious disease, or, though not suffering from such a disease, is carrying an organism that is capable of causing it, and

(b) that in his own interest, or in the interest of his family, or in the public interest, it is expedient that he should be medically examined, and

(c) that he is not under the treatment of a registered medical practitioner, or that the registered medical practitioner who is treating him consents to the making of an order under this section,

the sheriff may order him to be medically examined by the medical officer of health, or by a registered medical practitioner nominated by the medical officer of health.

(2) If the sheriff (acting if he deems it necessary, *ex parte*) is satisfied, on a written certificate issued by the medical officer of health for any district—

(a) that there is reason to believe that one of a group of persons, though not suffering from an infectious

disease, is carrying an organism that is capable of causing it; and PART IV

- (b) that in the interest of those persons or their families, or in the public interest, it is expedient that those persons should be medically examined,

the sheriff may order them to be medically examined by the medical officer of health, or by a registered medical practitioner nominated by the medical officer of health.

(3) In this section, references to a person's being medically examined shall be construed as including references to his being submitted to bacteriological and radiological tests and similar investigations, and references to the sheriff shall be construed, in relation to any place, as including references to any justice of the peace appointed for an area which includes that place, and to any burgh magistrate so appointed.

(4) This section applies to Scotland only.

73.—(1) Subject to the provisions of this section, the medical officer of health for any district shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises in that district at all reasonable hours for the purpose of the performance of any duty imposed on him by— Power of medical officers of health to enter premises in Scotland.

- (a) the Infectious Disease (Notification) Act 1889 ; or 1889 c. 72.
- (b) the Public Health (Scotland) Acts 1897 to 1945 ; or
- (c) this Act ;

or, if he has reason to believe that any infectious disease exists, or has recently existed, in the premises, for the purpose of inspecting the premises.

(2) If the sheriff, on a written certificate issued by the medical officer of health for any district,—

- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as aforesaid, and
- (b) is also satisfied either—
 - (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or

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(iii) that the case is one of urgency, or

(iv) that the premises are unoccupied or that the occupier is temporarily absent,

he may by warrant under his hand authorise the medical officer of health to enter the premises, if need be by force.

(3) A medical officer of health entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and, on leaving any unoccupied premises which he has entered by virtue of such a warrant, shall leave them as effectively secured against unauthorised entry as he found them.

(4) Every warrant granted under this section shall continue in force for a period of one month.

(5) If—

(a) any person who, in compliance with the provisions of this section, or of a warrant issued thereunder, enters a factory or workplace, discloses 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 person to whom by reason of his official position any information obtained as aforesaid is communicated, discloses that information to any person,

he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence against this section.

(6) A person who wilfully obstructs any person acting in the execution of this section or of a warrant issued thereunder shall be guilty of an offence against this section.

(7) A person who fails to give to any person acting in the execution of this section or of any warrant issued thereunder any assistance which that person may reasonably request him to give, or any information which that person is expressly authorised by any enactment to call for or may reasonably require, or who, when required to give any such information, knowingly makes any mis-statement in respect thereof, shall be guilty of an offence against this section :

Provided that nothing in this subsection shall be construed as requiring a person to answer any question, or give any information, if to do so might incriminate him.

(8) A person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(9) In this section “ medical officer of health ” has the same meaning as in the Public Health (Scotland) Act 1897; and references to the sheriff shall be construed, in relation to any place, as including references to any justice of the peace appointed for an area which includes that place, and to any burgh magistrate so appointed.

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1897 c. 38.

(10) This section applies to Scotland only.

74. So much of section 4(2) of the Infectious Disease (Notification) Act 1889 as relates (in Scotland) to the payment of fees to medical practitioners for certificates under that Act shall cease to have effect.

Fees for certain certificates no longer payable under section 4 of the Infectious Disease (Notification) Act 1889 in Scotland.
1889 c. 72.

75. In relation to postal packets addressed by patients detained in State hospitals within the meaning of the Mental Health (Scotland) Act 1960, section 34(2) of that Act (correspondence of patients) shall have effect as if, in the proviso thereto, paragraph (i) were omitted.

Correspondence of patients in State hospitals in Scotland.
1960 c. 61.

76.—(1) Subject to the provisions of this section, the Secretary of State may pay to the authorities to whom this section applies grants of such amounts, payable at such times, and subject to such conditions, as he may with the consent of the Treasury determine in respect of expenditure on revenue account incurred by those authorities on and after the relevant date in the exercise in relation to imported food of functions conferred or imposed on them by or under the Food and Drugs (Scotland) Act 1956.

Grants to certain authorities in Scotland in respect of functions relating to imported food.
1956 c. 30.

(2) The authorities to whom this section applies are county councils, the town councils of large burghs (within the meaning of the Local Government (Scotland) Act 1947), port local authorities and joint port local authorities constituted under section 172 of the Public Health (Scotland) Act 1897 and combinations of such authorities.

1947 c. 43.
1897 c. 38.

(3) The amount of the grant payable under this section in respect of any expenditure shall not exceed one half of that expenditure.

(4) In this section “ relevant date ” in relation to any authority means the day in the calendar year 1968 on which that authority’s financial year begins.

(5) This section applies to Scotland only.

PART V

GENERAL

Expenses
and receipts.

77.—(1) There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Minister of Health or the Secretary of State in the exercise of any of their powers under this Act ;
- (b) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other Act.

(2) All sums received, by virtue of this Act, by the Minister of Health or the Secretary of State shall be paid into the Exchequer.

Consequential
amendments
and repeals.

1946 c. 81.
1947 c. 27.

78.—(1) The enactments specified in Part I of Schedule 3 to this Act and the schemes mentioned in Part II of that Schedule shall have effect subject to the amendments specified in relation thereto in that Schedule, being amendments consequential on the foregoing provisions of this Act ; and in that Schedule “ the 1946 Act ” means the National Health Service Act 1946, and “ the 1947 Act ” means the National Health Service (Scotland) Act 1947.

(2) The enactments specified in columns 1 and 2 of Schedule 4 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

Short title,
citation,
commence-
ment, and
extent.
1967 c. 39.

79.—(1) This Act may be cited as the Health Services and Public Health Act 1968, and the National Health Service Acts 1946 to 1967, the National Health Service (Family Planning) Act 1967, and Part I of this Act, so far as it applies to England and Wales, may be cited together as the National Health Service Acts 1946 to 1968 ; and the National Health Service (Scotland) Acts 1947 to 1967 and Part I of this Act, so far as it applies to Scotland, may be cited together as the National Health Service (Scotland) Acts 1947 to 1968.

(2) This Act, in its application to England and Wales, shall come into force on such date as the Minister may by order made by statutory instrument appoint, and, in its application to Scotland, on such date as the Secretary of State may by order so made appoint ; and different dates may be appointed under this section for different provisions of this Act or for different purposes.

(3) This Act, except section 59 thereof, shall not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 16.

EXECUTIVE COUNCILS

Constitution of Executive Councils

1. An Executive Council shall consist of thirty members of whom—

- (a) eight members shall be appointed by the local health authority for the area of the Executive Council ;
- (b) seven members shall be appointed by the Minister ;
- (c) eight members (of whom one, but no more, shall be a medical practitioner having the qualifications prescribed for the purposes of section 41 of the 1946 Act) shall be appointed by the Local Medical Committee ;
- (d) three members shall be appointed by the Local Dental Committee ;
- (e) two members shall be appointed by the Local Pharmaceutical Committee ;
- (f) one member (who shall be an ophthalmic optician) shall be appointed by the members of the Local Optical Committee who are such opticians ;
- (g) one member (who shall be a dispensing optician) shall be appointed by the members of that Committee who are such opticians.

2. The Members of an Executive Council shall from time to time, in accordance with such procedure as may be prescribed, appoint one of their members to be chairman of the Council.

Supplementary Provisions

3. Every Executive Council shall be a body corporate with perpetual succession and a common seal.

4. An Executive Council shall not acquire land except with the consent of the Minister.

5. The term of office of the chairman of an Executive Council shall be such as the Council, when making the appointment, determine, but if he ceases to be a member of the Council he shall also cease to be chairman.

6. The Minister may make regulations—

- (a) with respect to the appointment, tenure of office and vacation of office of the members of an Executive Council ;
- (b) with respect to the appointment of committees consisting wholly or partly of members of such a Council and the delegation of functions to such committees ;

- SCH. 1
- (c) with respect to the appointment of officers of such a Council ;
 - (d) for payment by such a Council of sums, not exceeding such sums as may be prescribed, as subscriptions to the funds of any association of such Councils whose objects are approved by the Minister ;
 - (e) with respect to the procedure of such a Council or any such committee as aforesaid.

7. If a Local Medical Committee, a Local Dental Committee, a Local Pharmaceutical Committee, the members of a Local Optical Committee who are ophthalmic opticians or the members of such a committee who are dispensing opticians fail within such period as the Minister may determine to appoint any member of an Executive Council whom they are required to appoint, the appointment shall be made by the Minister.

8. The proceedings of an Executive Council or committee thereof shall not be invalidated by a vacancy in the membership of the Council or committee or by a defect in the appointment or qualification of a member thereof.

Section 43.

SCHEDULE 2

1946 c. 81.
1947 c. 27.

ENACTMENTS OF THE NATIONAL HEALTH SERVICE ACT 1946 AND THE NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1947 APPLIED

PART I

ENACTMENTS OF THE NATIONAL HEALTH SERVICE ACT 1946 APPLIED

| <i>Enactment</i> | <i>Subject-matter</i> |
|----------------------|--|
| Section 57 | Default powers of Minister of Health. |
| Section 58 | Acquisition of land. |
| Section 63 | Use of premises and equipment of local authorities by other authorities. |
| Section 70 | Inquiries. |
| Section 71 | Recovery of charges. |
| Section 72 | Protection of officers. |
| Section 80(3) | Power to apply Act to Isles of Scilly. |

PART II

ENACTMENTS OF THE NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1947 APPLIED

| <i>Enactment</i> | <i>Subject matter</i> |
|-------------------|--|
| Section 56 | Default powers of Secretary of State. |
| Section 57 | Purchase of land. |
| Section 63 | Use of premises and equipment of local authorities by other authorities. |
| Section 69 | Inquiries. |
| Section 70 | Protection of certain bodies and their officers. |

SCHEDULE 3

Section 78.

CONSEQUENTIAL AMENDMENTS OF ENACTMENTS AND SCHEMES

PART I

ENACTMENTS

The Midwives Act 1936
(26 Geo. 5 & 1 Edw. 8. c. 40)

In section 2(3), the first reference to the Midwives Act 1936 shall be construed as including a reference to section 10 of this Act as it applies to England and Wales.

The National Health Service (Scotland) Act 1947
(10 & 11 Geo. 6. c. 27)

Section 63 shall have effect as if, after the word "or" where it secondly occurs, there were inserted the words "(except where the authority is a local health authority)".

The National Assistance Act 1948
(11 & 12 Geo. 6. c. 29)

In section 21(7), in the definition of local health services, the reference to services provided for persons in their own homes under Part III of the 1946 Act or Part III of the 1947 Act shall be construed as including a reference to services so provided under Part I of this Act.

In section 29(6)(b), the reference to accommodation and services required to be provided under the 1946 or the 1947 Act shall be construed as including a reference to accommodation or services required to be provided under Part I of this Act.

The Midwives Act 1951
(14 & 15 Geo. 6. c. 53)

In section 11(2), the reference to section 23 of the 1946 Act shall be construed as including a reference to section 10 of this Act.

The Disabled Persons (Employment) Act 1958
(6 & 7 Eliz. 2. c. 33)

In section 3(2), references to arrangements under section 28 of the 1946 Act shall be construed as references to arrangements under section 12 of this Act.

In paragraph 2 of the Schedule, references to functions under section 28 of the 1946 Act shall be construed as references to functions under section 12 of this Act.

The Local Government Act 1958
(6 & 7 Eliz. 2. c. 55)

In section 46(1),—

(a) for paragraph (a) there shall be substituted the following paragraph:—

"(a) Part III of the National Health Service Act 1946, 1946 c. 81. except the functions under section 27 of that Act

SCH. 3
1967 c. 39.

(which relates to ambulances), section 1 of the National Health Service (Family Planning) Act 1967 and sections 10 to 13 of the Health Services and Public Health Act 1968 except the functions mentioned in paragraph (g) of this subsection ” ;

(b) after paragraph (d) there shall be inserted the following paragraphs :—

“ (e) section 45 of the Health Services and Public Health Act 1968 ;

(ea) section 65 of the Health Services and Public Health Act 1968 ” ;

(c) for paragraph (g) there shall be substituted the following paragraph :—

“ (g) section 12 of the Health Services and Public Health Act 1968 so far as it relates to the care in residential accommodation of persons with a view to preventing them from becoming mentally ill, to the care in such accommodation of persons suffering from mental illness or to the after-care in such accommodation of persons who have been so suffering ”.

The Mental Health Act 1959
(7 & 8 Eliz. 2. c. 72)

In section 8, in subsection (1), the reference to provision made under section 28 of the 1946 Act shall be construed as a reference to provision made under section 12 of this Act, and in subsections (2) and (4), references to Part III of the 1946 Act shall be construed as including references to Part I of this Act.

In sections 9(1) and 12(1), any reference to arrangements made under section 28 of the 1946 Act shall be construed as a reference to arrangements made under section 12 of this Act.

The Mental Health (Scotland) Act 1960
(8 & 9 Eliz. 2. c. 61)

In section 8, in subsections (2) and (4), the references to Part III of the 1947 Act shall be construed as including references to Part I of this Act.

The Health Visiting and Social Work (Training)
Act 1962

(10 & 11 Eliz. 2. c. 33)

In sections 3 and 5, references to functions under Part III of the 1946 Act shall be construed as including references to functions under Part I of this Act in its application to England and Wales, and references to functions under Part III of the National Assistance Act 1948 shall be construed as including references to functions under section 26 of that Act as amended by section 44 of this Act and under section 45 of this Act.

1948 c. 29.

In section 3(5), the reference to functions under Part III of the 1947 Act shall be construed as including a reference to functions under Part I of this Act in its application to Scotland.

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The London Government Act 1963
(1963 c. 33)

The reference in paragraph (a) of section 45(2) to Part III of the 1946 Act shall be construed as including a reference to sections 10, 12 and 13 of this Act.

The General Rate Act 1967
(1967 c. 9)

In section 45(b), the references to purposes mentioned in and arrangements made under section 28(1) of the 1946 Act shall be construed respectively as including references to purposes mentioned in and arrangements made under section 12 of this Act.

PART II

SCHEMES

All delegation schemes in force under section 46 of the Local Government Act 1958 immediately before the coming into operation of this Part of this Schedule shall be amended as follows:—

- (a) references to sections 23, 28 and 29 of the 1946 Act shall be construed as referring respectively to sections 10, 12 and 13 of this Act ;
- (b) references to sections 24 and 25 of the 1946 Act shall be construed as including respectively references to sections 11(1) and 11(2) of this Act ;
- (c) any reference to section 29 of the National Assistance Act 1948 shall be construed as including a reference to section 45 of this Act ;
- (d) references to sections 22 and 28 of the 1946 Act and section 30 of the National Assistance Act 1948 shall be construed as including references to section 65 of this Act.

SCHEDULE 4

Section 78.

ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|------------------------------------|---|--|
| 52 & 53 Vict. c. 72. | The Infectious Disease (Notification) Act 1889. | In section 4(2) the words " and shall pay " onwards. |
| 60 & 61 Vict. c. 38. | The Public Health (Scotland) Act 1897. | Section 45. |
| 26 Geo. 5 & 1 Edw. 8. c. 49. | The Public Health Act 1936. | Sections 144 to 146. Section 172. |

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| Chapter | Short Title | Extent of Repeal |
|--------------------------|---------------------------------------|--|
| 9 & 10 Geo. 6. c. 81. | The National Health Service Act 1946. | <p>Section 5. Section 7(5)(c) and (d). In section 11, in subsection (9), in paragraph (i), the words "and compensation", except in relation to an order made in consequence of the occurrence, before the coming into operation of section 35 of this Act, of any of the events mentioned in paragraphs (a) to (c) of that subsection, and paragraph (ii).</p> <p>Section 22(5). Section 23. In section 28, subsection (1) subsection (2) (except in relation to services provided before the coming into operation of section 12 of this Act) and subsection (3). In section 29, subsection (1) and (except in relation to help provided before the coming into operation of section 13 of this Act) subsection (2). In section 31, in subsection (5), the words "and their compensation by the Minister", except in relation to an order made under subsection (2), (3) or (4) of that section before the coming into operation of section 35 of this Act or an order made before the coming into operation of that section revoking an order made under any of those subsections. In section 40(2)(e), the words "and also for the remuneration of members of the Board". Section 41(2) and (4). Section 48. In section 54, in subsection (3), the words "or by an Ophthalmic Services Committee on behalf of the Council", and subsection (5). In section 57(1), the words "Ophthalmic Services Committee". In section 63, the words from "or by any voluntary" to "1959".</p> |

| Chapter | Short Title | Extent of Repeal |
|--|--|---|
| <p>9 & 10 Geo. 6. c. 81—<i>cont.</i></p> | <p>The National Health Service Act 1946—<i>cont.</i></p> | <p>In Schedule 1, in paragraph 2, the words from “and for the making of such payments” onwards.</p> <p>In Schedule 3, in Part IV, paragraphs 2(c) and 5.</p> <p>In Schedule 6, paragraph 3(b).</p> <p>In Schedule 7, paragraph 6(b).</p> <p>In Schedule 10, the words from “Where the local authority” to “by the local health authority”.</p> |
| <p>10 & 11 Geo. 6. c. 27.</p> | <p>The National Health Service (Scotland) Act 1947.</p> | <p>Section 5.</p> <p>In section 11, in subsection (10), in paragraph (i), the words “and compensation”, except in relation to an order made in consequence of the occurrence, before the coming into operation of section 35 of this Act, of any of the events mentioned in paragraphs (a) and (b) of that subsection.</p> <p>In section 22, subsection (3).</p> <p>Section 23.</p> <p>In section 27, subsection (3).</p> <p>In section 28, subsection (1) and (except in relation to help provided before the coming into operation of section 13 of this Act) subsection (2).</p> <p>In section 32, in subsection (5) the words “and their compensation by the Secretary of State” except in relation to an order made under subsections (2), (3) or (4) of that section before the coming into operation of section 35 of this Act or an order made before the coming into operation of that section revoking an order made under any of those subsections.</p> <p>In section 39, in subsection (2)(e) the words “and also for the remuneration of members of the Board”.</p> <p>In section 42, subsections (2) (as originally enacted) and (4).</p> <p>Section 48.</p> <p>In section 54, in subsection (1), the words from “and expenditure” where second occurring to the end of the subsection, and subsection (3).</p> |

SCH. 4

| Chapter | Short Title | Extent of Repeal |
|--|---|--|
| 10 & 11 Geo. 6. c. 27— <i>cont.</i> | The National Health Service (Scotland) Act 1947 — <i>cont.</i> | In Schedule 1 in paragraph 2 the words from “and for the making of such payments” onwards. In Schedule 4 Part IV paragraphs 2(c) and 5. In Schedule 6, paragraph 4(c), the proviso to paragraph 4, and paragraph 8. In Schedule 7 paragraph 3(b). In Schedule 8 paragraph 6(b). |
| 11 & 12 Geo. 6. c. 29. | The National Assistance Act 1948. | Section 26(6). Section 30(2). Section 31, except in relation to councils of county districts in England and Wales. In section 33, in the proviso, the words from “and in subsection (3) of the said section thirty-one” to the end of the proviso. |
| 11 & 12 Geo. 6. c. 53. | The Nurseries and Child-Minders Regulation Act 1948. | In section 4(4), the proviso, except in relation to an offence committed before the coming into operation of section 60 of this Act. In section 7(2), the words “is refused admission to the home of a person registered under section one of this Act, or” and the words “admission has been refused or, as the case may be, that”. Section 12. |
| 12, 13 & 14 Geo. 6. c. 93. | The National Health Service (Amendment) Act 1949. | In section 21, the words “or ophthalmic or dispensing optician”, the words “or optician” and the words “or to the satisfaction of the Minister acting on the advice of such a committee”. Section 22. In section 29(1), the words “the Fifth Schedule to the Act of 1946 and”. In the Schedule, in Part I, the words from “In subsection (2) of section twenty-two” to “food or articles”, the words from “In subsection (5) of section 54” to “(including travelling and subsistence expenses)”, the words from “In paragraph 2 of the First |

| Chapter | Short Title | Extent of Repeal |
|--|---|--|
| 12, 13 & 14 Geo. 6. c. 93 —cont. | The National Health Service (Amendment) Act 1949—cont. | Schedule ” to “ usual place of residence ” and the words from “ At the end of the said Part IV ” onwards and in Part II the words from “ In subsection (2) of section twenty-two ” to “ of such provision ”, the words from “ In subsection (3) of section 54 ” to “ (including travelling and subsistence expenses) ”, the words from “ in paragraph 2 of the First Schedule ” to “ set up as aforesaid ”, the words from “ For sub-paragraph (c) of paragraph 2 ” to “ usual place of residence ”, the words from “ at the end of the said Part IV ” to “ such bodies ”, the words from “ For sub-paragraph (c) of paragraph 4 ” to “ any approved duty ” and the words from “ At the end of the said paragraph 4 ” onwards. |
| 14 & 15 Geo. 6. c. 53. | The Midwives Act 1951. | In section 11(2), the words “ or maternity nurses ”. |
| 15 & 16 Geo. 6 & 1 Eliz. 2. c. 25. | The National Health Service Act 1952. | Section 5(2) and (3). |
| 1 & 2 Eliz. 2. c. 47. | The Emergency Laws (Miscellaneous Provisions) Act 1953. | Section 6(4). |
| 4 & 5 Eliz. 2. c. 16. | The Food and Drugs Act 1955. | Section 26. |
| 7 & 8 Eliz. 2. c. 72. | The Mental Health Act 1959. | Sections 6 and 7. Section 153(3). In Schedule 6, paragraph 1. In Schedule 7, the amendment of section 63 of the National Health Service Act 1946. |
| 8 & 9 Eliz. 2. c. 61. | The Mental Health (Scotland) Act 1960. | In Schedule 4, the amendment of section 63 of the National Health Service (Scotland) Act 1947. |
| 9 & 10 Eliz. 2. c. 43. | The Public Authorities (Allowances) Act 1961. | Sections 4, 5 and 6. |

SCH. 4

| Chapter | Short Title | Extent of Repeal |
|----------------------------|---|--|
| 10 & 11 Eliz. 2. c. 24. | The National Assistance Act 1948 (Amendment) Act 1962. | As respects England and Wales, in section 1(1), the section substituted for section 31 of the National Assistance Act 1948, but except in relation to councils of county districts and, as respects Scotland, the whole Act. |
| 1963 c. 33. | The London Government Act 1963. | Section 45(4). Section 46(3). |
| 1964 c. xxxv. | The Newcastle upon Tyne Corporation Act 1964. | Section 29. |
| 1967 c. 39. | The National Health Service (Family Planning) Act 1967. | In section 2, subsection (2) from the beginning to "section, and". In section 3(1)(a), the words "or section 61 of the Local Government Act 1958". |



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

An Act to make new provision as respects sewerage in Scotland, and for connected purposes.

[26th July 1968]

BE IT ENACTED by the Queen'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

GENERAL PROVISIONS AS TO SEWERAGE

Duties and powers of local authorities

1.—(1) Subject to the provisions of this Act, it shall be the duty of every local authority to provide such public sewers as may be necessary for effectually draining their area of domestic sewage, surface water and trade effluent, and to make such provision, by means of sewage treatment works or otherwise, as may be necessary for effectually dealing with the contents of their sewers.

Duty of local authority to provide for sewerage of their area.

(2) Without prejudice to the generality of the foregoing subsection, every local authority shall take their public sewers to such point or points as will enable the owners of premises which are to be served by the sewers to connect their drains or private sewers therewith at a reasonable cost.

(3) The duties imposed by the foregoing subsections shall not require a local authority to do anything which is not practicable at a reasonable cost.

PART I

(4) If any question arises under this section as to whether anything is or is not practicable at a reasonable cost or as to the point or points to which public sewers must be taken to enable drains or private sewers to be connected therewith at a reasonable cost, the Secretary of State, if requested to do so by any person aggrieved, shall, after consultation with that person and with the local authority concerned, determine that question, and the local authority shall give effect to his determination.

Maintenance
of public
sewers and
other works.

2. Subject to section 4 below, it shall be the duty of every local authority to inspect, maintain, repair, cleanse, empty, ventilate and where appropriate renew all sewers, sewage treatment works and other works vested in them by virtue of this Act.

Construction
etc. of public
sewers and
public
sewage
treatment
works.

3.—(1) Subject to the provisions of this Act, a local authority may, within or outwith their area—

(a) construct a public sewer—

(i) in, under or over any street, or under any cellar or vault below any street ;

(ii) in, on or over any land not forming part of a street ;

(b) construct public sewage treatment works in or on any land held by them or appropriated for the purpose.

(2) Before commencing construction of a sewer in, on or over any land not forming part of a street, a local authority shall serve notice of their intention on the owner and the occupier of the land concerned together with a description of the proposed works and of the right to object thereto, and if within 2 months after the service of the notice the owner or the occupier objects to the proposed works, and that objection is not withdrawn, the local authority shall not proceed to execute the works without consent aftermentioned but may refer the matter by summary application to the sheriff who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and the decision of the sheriff on the matter shall be final.

1947 c. 43.

(3) Section 349 of the Local Government (Scotland) Act 1947 (service of notices) shall apply to notices under subsection (2) above relating to land as it applies to notices relating to premises.

(4) Where a local authority, in the exercise of their powers under subsection (1) above, propose to execute works outwith

their area otherwise than in pursuance of an agreement under section 5 below, they shall in addition to any notice served under subsection (2) above serve notice of their intention on the local authority within whose area it is proposed to execute the works together with a description of the proposed works and if within two months after the service of the notice the local authority on whom it was served object to the proposed works, and that objection is not withdrawn, the first-mentioned authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Secretary of State who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and his decision on the matter shall be final.

4. A local authority may, if they think fit, close, alter, replace or remove any sewer, sewage treatment works or other works vested in them by virtue of this Act, but, before any person who is lawfully using the sewer or works for any purpose is deprived by the authority of that use, they shall provide a sewer or works equally effective for that use and shall at their expense carry out any work necessary to connect his drain or private sewer with the sewer or works so provided.

Power of local authority to close or alter public sewers etc.

5.—(1) A local authority may enter into an agreement as respects any of the following matters with another local authority, and on such terms and conditions as may be specified in the agreement—

Agreements between local authorities.

- (a) whereby they shall exercise, in relation to any part of the area of the other authority, or in relation to any premises situated therein, any of the functions of the other authority under this Act;
- (b) whereby their sewers or sewage treatment works may be connected with and discharged into the sewers or sewage treatment works of the other authority.

(2) In the event of authorities failing to agree as to the terms or conditions on which they should make an agreement under the foregoing subsection, the Secretary of State may, on the application of those authorities, determine those terms or conditions, and his decision on the matter shall be final.

6. Where by virtue of an agreement under section 5 above or in pursuance of section 13 below a local authority exercise any functions in relation to any part of the area of another local authority or in relation to any premises situated therein, they may do so as if that part or those premises were situated within their area.

Functions outwith the area of a local authority.

PART I
Agreements
between
highway and
local
authorities.

7.—(1) Subject to the provisions of this section, a highway authority and a local authority may agree, on such terms and conditions as may be specified in the agreement, as to the provision, management, maintenance or use of their sewers or drains for the conveyance of water from the surface of streets or surface water from premises.

(2) Where a sewer or drain with respect to which a highway authority and a local authority propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage treatment works of another local authority, the agreement shall not be made without the consent of that other authority, who may give their consent upon such terms and conditions as they think fit.

(3) A highway authority or local authority shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms or conditions unacceptable to the other party, and a local authority shall not, under subsection (2) above, unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms or conditions unacceptable to either party thereto, and any dispute arising under this section to which the Secretary of State is not a party as to whether or not any authority are acting unreasonably, shall be referred to the Secretary of State, who, after consultation with the authorities concerned, shall determine the dispute, and his decision shall be final.

(4) In this section “highway authority” has the meaning assigned to it in relation to Scotland by section 257(1) of the Road Traffic Act 1960.

1960 c. 16.

Agreements
as to
provision of
sewers etc. for
new premises.

8.—(1) Subject to subsection (2) below, where a local authority are satisfied that premises are to be constructed within their area by any person, they may enter into an agreement with that person as respects the provision by that person or by them of sewers and sewage treatment works to serve those premises, and any such agreement may specify the terms and conditions on which the work is to be carried out, including provision as to the taking over by the authority of sewage treatment works so provided, and, in relation to any premises served or to be served by the sewers or works, shall be enforceable against the authority by the owner or occupier of the premises for the time being.

(2) An agreement under the foregoing subsection may only be entered into by an authority where the authority have no duty under section 1 above to provide public sewers to serve the premises.

Loan of
temporary
sanitary
conveniences.

9. Where work is to be carried out in connection with a sewer, drain or sewage treatment works which necessitates the disconnection of water closets or other sanitary conveniences provided for or in connection with premises, the local authority

PART I

concerned may agree with the occupier of the premises, and on such terms and conditions as may be specified in the agreement, to supply on loan to him temporary sanitary conveniences in substitution for any water closets or other sanitary conveniences so disconnected :

Provided that the local authority shall make no charge for the supply, cleansing or removal of the temporary sanitary conveniences for the first 7 days of the period of loan or where the work is made necessary by a defect in a public sewer.

10.—(1) A local authority may pass a resolution whereby they elect to empty all septic tanks serving premises situated in their area or in any part thereof specified in the resolution, and where such a resolution has been passed and approved by the Secretary of State it shall be the duty of the authority, subject to subsection (2) below, to empty all septic tanks serving such premises, where it is reasonably practicable to do so, at reasonable intervals and at such convenient hours and times as they consider proper.

(2) The duty imposed by the foregoing subsection does not extend to septic tanks which receive trade effluent or to septic tanks which are, or are part of, public sewage treatment works.

(3) If any question arises under this section as to whether anything is or is not reasonably practicable or as to whether intervals are or are not reasonable, or if any question arises under subsection (2) above, it shall be determined summarily by the sheriff, whose decision on the matter shall be final.

(4) Where in relation to any premises situated in their area a local authority have no duty to empty septic tanks serving those premises, they may, at the request of the owner or occupier of the premises, agree to empty any such tank on such conditions as to payment or otherwise as the authority may think fit.

11.—(1) Every local authority shall keep deposited at their offices, for inspection and copying by any person at all reasonable hours free of charge, a map showing and distinguishing so far as is reasonably practicable all sewers, drains and sewage treatment works which are vested in them by virtue of this Act.

(2) Where some of the sewers so vested in a local authority are reserved for foul water only or for surface water only, the said map shall show also the purposes which each such sewer is intended to serve.

Rights and duties of owners and occupiers

12.—(1) Subject to the provisions of this section and of section 14 below, the owner of any premises within the area of a local authority shall be entitled to connect his drains or private sewers with the sewers or sewage treatment works of that authority, and the occupier of any such premises shall be

Emptying of septic tanks.

Duty of local authority to keep map showing public sewers etc.

Rights of owners and occupiers to connect with and drain into public sewers etc.

PART I entitled by means of those drains or private sewers to drain into those sewers or works the domestic sewage and surface water from those premises.

(2) An owner shall not, under the foregoing subsection, be entitled to connect his drains or sewers with the sewers or works of an authority unless the intervening land is land through which the owner is entitled to construct a drain or sewer.

(3) The owner of any premises who proposes to connect his drains or sewers with the sewers or works of a local authority, or to alter a drain or sewer connected with such sewer or works in such a manner as may interfere with them, shall give to the authority notice of his proposals, and within 28 days of the receipt by them of the notice the authority may refuse permission for the connection or alteration, or grant permission for the connection or alteration, subject to such conditions as they think fit, and any such permission may in particular specify the mode and point of connection and, where there are separate public sewers for foul water and surface water, prohibit the discharge of foul water into the sewer reserved for surface water, and prohibit the discharge of surface water into the sewer reserved for foul water.

(4) A local authority shall forthwith intimate to the owner their decision on any proposals made by him under subsection (3) above, and, where permission is refused, or granted subject to conditions, shall inform him of the reasons for their decision and of his right of appeal under subsection (5) below.

(5) If a person to whom a decision has been given under subsection (4) above is aggrieved by the decision or any conditions attached thereto, he may appeal to the Secretary of State who may confirm the decision and any such conditions either with or without modification or refuse to confirm it.

(6) Where permission has been granted as mentioned in subsection (3) above or by virtue of subsection (5) above, the person to whom it was granted shall, before commencing any work in pursuance of that permission, give not less than 3 days' notice to the local authority who granted it so as to enable them to supervise the execution of the work, and shall afford them all reasonable facilities for so doing.

(7) Where any work to be done in pursuance of a permission granted under subsection (3) above or by virtue of subsection (5) above involves the breaking open of a street, the local authority who granted the permission may undertake the work in the street and may recover the expenses reasonably incurred by them in so doing from the person for whom the work was done.

(8) Any person who connects a drain or sewer to the sewers or works of a local authority or alters a drain or sewer without permission granted under this section, or contrary to any conditions attached thereto, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25, and the local authority may, whether or not proceedings have been taken under this subsection, close, remove or remake any such unlawful connection, and recover from the offender any expenses reasonably incurred by them in so doing.

13.—(1) Subject to the following subsection, the owner or occupier of any premises outwith the area of a local authority shall have the like rights with respect to connection with or drainage into the sewers or works of that authority as he would have under section 12 above if his premises were situated within their area, and the provisions of that section shall apply accordingly: Rights of owners and occupiers to connect with and drain into sewers etc. of another local authority.

Provided that—

- (a) the owner of the premises concerned shall, at the same time as he gives notice of his proposals under subsection (3) of that section, give notice to the same effect to the authority within whose area the premises are situated ; and
- (b) the Secretary of State in determining an appeal under subsection (5) of that section may, as a condition of granting permission to a connection, require the local authority in whose area the premises are situated to make to the other local authority concerned such reasonable payment or reasonable periodical payments as he thinks fit.

(2) The foregoing subsection shall not apply where the owner of premises is required by or under any other enactment to connect his drains or sewers with the sewers or sewage treatment works of the local authority within whose area his premises are situated.

14.—(1) Where the owner of any premises proposes to construct a drain or sewer in respect of which notice has been given to the local authority by virtue of section 12(3) above or that subsection as applied by section 13 above, or sewage treatment works in respect of which notice has been given under subsection (2) below, the authority may, if they consider that the proposed drain, sewer or works is, or is likely to be, needed to form part of a general sewerage system which they have provided or propose to provide, within 28 days of the receipt by them of the notice direct him to construct the drain, sewer or works in a manner differing from that in which he proposes to construct the drain, sewer or works. Direction by local authority as to manner of construction of works.

PART I

(2) Where the owner of any premises proposes to construct sewage treatment works to serve those premises he shall give notice of his proposals to the local authority within whose area the works are to be situated.

(3) If a person to whom a direction has been issued under subsection (1) above is aggrieved by the direction, he may appeal to the Secretary of State, who may disallow the direction or allow it with or without modification.

(4) A person to whom a direction is issued under this section shall, before commencing any work in pursuance of that direction, give not less than 3 days' notice to the local authority who issued it so as to enable them to supervise the execution of the work and shall afford them all reasonable facilities for so doing.

(5) An authority who issue a direction under subsection (1) above shall pay to the person constructing the drain, sewer or sewage treatment works the extra expenses reasonably incurred by him in complying with the direction and, until the drain, sewer or works become vested in the authority, they shall also from time to time pay to him so much of any expenses reasonably incurred by him in repairing, operating or maintaining the drain, sewer or works as may be attributable to their direction having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, he may refer it by summary application to the sheriff whose decision on the matter shall be final.

(6) If any person who under this section has been directed by a local authority to construct a drain, sewer or sewage treatment works in a particular manner constructs them otherwise than in accordance with the terms of the direction, or, if the direction has been modified under subsection (3) above, of the modified direction, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25.

Owner or occupier to remedy defects in drains and other works.

15.—(1) If it appears to a local authority that as respects any premises in their area the drains or sewage treatment works serving such premises (other than drains or works vested in the authority) are defective, they may by notice require the owner or occupier of the premises, within a reasonable time therein specified, to remedy the defect.

(2) If an owner or occupier is aggrieved by a notice under the foregoing subsection he may, within the time specified in the notice, refer the matter by summary application to the sheriff, who may issue such directions as he thinks fit, and whose decision on the matter shall be final.

(3) Where an owner or occupier fails to comply with the terms of a notice under subsection (1) above, or as modified under subsection (2) above, the local authority may, after giving not less than 7 days' notice to the owner or occupier concerned, carry out the work necessary to remedy the defect, and may recover the expenses reasonably incurred by them in so doing from the person on whom the notice was served, but without prejudice to the rights and obligations, as between themselves, of the owner and occupier:

Provided that the local authority may, if they think fit, remit such part of the expenses as seems to them to be equitable.

(4) If it appears to the medical officer of health or sanitary inspector that immediate action is required to remedy a defect, and he so certifies in writing to the local authority, the foregoing provisions of this section shall apply with the following modifications—

- (a) the period specified in a notice under subsection (1) shall be 48 hours;
- (b) subsection (2) shall not apply; and
- (c) the period specified in subsection (3) shall not apply and the authority may proceed to carry out the work forthwith.

(5) In this section "defect" includes any obstruction in a drain or sewage treatment works, and "defective" shall be construed accordingly.

Vesting of sewers, drains and works

16.—(1) All sewers, junctions therewith, drains and sewage treatment works which were immediately before the commencement of this section vested in a local authority shall continue to be vested in them, and there shall also vest in them—

Vesting of
sewers and
other works
in local
authority.

- (a) all sewers and sewage treatment works constructed by them at their expense in pursuance of section 1 above;
- (b) all junctions with their sewers, whether constructed before or after the commencement of this section, and whether constructed at the expense of the authority or otherwise;
- (c) all private sewers connecting with their sewers or sewage treatment works, whether constructed before or after the commencement of this section;
- (d) all sewage treatment works taken over by them by virtue of an agreement under section 8 above; and
- (e) all sewage treatment works taken over by them under section 17 below.

(2) Private sewers and junctions with sewers referred to in the foregoing subsection which are completed after the

PART I

commencement of this section shall vest in the local authority on the date of their completion, and the works referred to in paragraph (e) of the foregoing subsection shall vest in the authority in accordance with the provisions of section 17 below.

(3) All sewers, junctions therewith, drains and sewage treatment works vested in a local authority shall be the property of the authority who shall be solely responsible for their management, maintenance and renewal.

(4) In this section "junction" means the junction between a public sewer and any other sewer or drain.

Local authority may take over private sewage treatment works.

17.—(1) Subject to the provisions of this section, a local authority within whose area premises served by private sewage treatment works are situated may, by agreement with the owner of the works, or failing such agreement, in pursuance of proposals made by them under subsection (2) below, take over the works.

(2) A local authority may, by notice served on the owner of works as mentioned in the foregoing subsection, intimate their proposals to take over the works within such period, not being less than 2 months, as may be specified in the notice, and on such conditions, including if they think fit conditions as to payment of compensation by them, as may be so specified, and shall serve copies of the notice on any other local authority within whose area any of the works, or any sewers or drains connected therewith, are situated; any notice served under this subsection shall inform the owner of his right of appeal under subsection (3) below.

(3) If an owner on whom a notice has been served under subsection (2) above is aggrieved by the notice, he may, within the period specified in the notice, appeal to the Secretary of State who may confirm the proposals of the local authority and any conditions so specified either with or without modification or refuse to confirm them.

(4) All works taken over by a local authority under this section shall vest in them in accordance with the terms of any agreement made under subsection (1) above, or failing such agreement, at the end of the period specified under subsection (2) above or on such date as may be specified by the Secretary of State in his decision on an appeal under subsection (3) above.

(5) Subject to the provisions of this Act, a person who immediately before the taking over of works under this section was lawfully entitled to use them shall continue to be so entitled after they have been so taken over.

(6) An agreement under subsection (1) above or proposals under subsection (2) above may relate to a part only of works.

Miscellaneous

PART I

18.—(1) On the appointed day all special drainage districts and drainage districts shall be dissolved, and as from the commencement of this section the power to form such districts under Part VII of the Local Government (Scotland) Act 1947 or section 218 of the Burgh Police (Scotland) Act 1892 shall cease to have effect.

Expenses of local authorities and dissolution of drainage districts.
1947 c. 43.

(2) The Secretary of State shall, by regulations made by statutory instrument, provide for the payment by the local authority within whose area any such district was situated, subject to such exceptions or conditions as may be specified in the regulations, of compensation to or in respect of persons who were officers or servants employed for the purposes of the district who suffer loss of employment or loss or diminution of emoluments which is attributable to the dissolution of the district; and the regulations shall include provision as to the manner in which and the persons to whom any claim for compensation under this subsection is to be made and for the determination of all questions arising under the regulations.

1892 c. 55.

(3) As from the appointed day, the expenses of a town council under this Act shall be met from the burgh rate and the expenses of a county council under this Act shall be met from the county rate, and, if the county council think fit, and in accordance with the subsequent provisions of this section, from the special district sewer rate.

(4) Notwithstanding the dissolution under this section of special drainage districts, a county council may continue to levy a special district sewer rate in any part of their area which formed a special drainage district where such a rate was levied for the year immediately preceding the appointed day:

Provided that for the seven years commencing on the appointed day the product of any such rate shall not exceed—

- (a) for the first year, the relevant sum;
- (b) for the second year, the relevant sum;
- (c) for the third year, 85 per cent. of the relevant sum;
- (d) for the fourth year, 70 per cent. of the relevant sum;
- (e) for the fifth year, 55 per cent. of the relevant sum;
- (f) for the sixth year, 40 per cent. of the relevant sum;
- (g) for the seventh year, 25 per cent. of the relevant sum;

and no special district sewer rate shall thereafter be levied by the county council.

In this subsection “relevant sum” means the product of the special district sewer rate levied in a special drainage district for the year preceding the appointed day.

(5) Notwithstanding the dissolution under this section of special drainage districts, section 45 of the Local Government

1894 c. 58.

PART I

(Scotland) Act 1894 (which provides for distinguishing in the valuation roll lands and heritages in special drainage districts and for the separate valuation of portions of undertakings within such districts) shall, during such period as may be necessary for the purposes of subsection (4) above, continue to have effect in relation to areas which formed the special districts so dissolved.

1947 c. 43. (6) As from the appointed day, the provisions of Part VII of the Local Government (Scotland) Act 1947, so far as relating to the operation and dissolution of special drainage districts, shall cease to have effect.

Compulsory acquisition of land.

1947 c. 42.

19.—(1) A local authority may, if so authorised by the Secretary of State, purchase land compulsorily for the purposes of this Part of this Act, whether or not the land is immediately required for those purposes, and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.

1963 c. 51.

1949 c. 42.

(2) Where a dispute arises as to the compensation payable in respect of any such compulsory purchase, it shall be determined by the Lands Tribunal for Scotland in accordance with the Land Compensation (Scotland) Act 1963, but until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland any such dispute shall be determined by an official arbiter appointed under Part I of the said Act of 1963.

Compensation for loss etc. resulting from exercise of powers under this Part of this Act.

20.—(1) Subject to the provisions of this section, a local authority shall make full compensation for any loss, injury or damage sustained by any person by reason of the exercise by the authority of any of their powers under this Part of this Act in relation to a matter as to which he has not himself been in default.

(2) Any question arising under this section as to the fact of loss, injury or damage or as to the amount of compensation shall, in the case of dispute, be referred to a single arbiter to be appointed by agreement between the parties or, in default of agreement, by the Secretary of State, and the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings.

(3) A claim for compensation against an authority under this section shall not be maintainable unless it is made to the authority within 12 months after the date on which it is alleged to have arisen.

(4) Where an owner of land claims compensation in respect of loss, injury or damage sustained by him by reason of a local

PART I

authority having, in the exercise of their powers under this Part of this Act, constructed a sewer in, on or over his land, the arbiter in determining the amount of compensation shall determine also by what amount, if any, the value to the claimant of any land belonging to him has been enhanced by the construction of the sewer, and the local authority shall be entitled to set off that amount against the amount of any compensation awarded.

21.—(1) Unless with the consent of the local authority, which shall not be unreasonably withheld, no building shall be erected over, or in such a way as to interfere with or to obstruct access to, any sewer vested in the authority. Buildings not to interfere with sewers.

(2) If any question arises as to whether consent under the foregoing subsection has been unreasonably withheld or as to what conditions should be attached to the consent, a person aggrieved may refer the question by summary application to the sheriff, whose decision in the matter shall be final.

(3) In this section “building” has the same meaning as in section 29(1) of the Building (Scotland) Act 1959. 1959 c. 24.

22.—(1) Subject to the provisions of this section, nothing in this Part of this Act shall authorise a local authority to carry out works which will interfere with the carrying on of a statutory undertaking without the consent of the statutory undertakers concerned. Protection for statutory undertakers.

(2) Consent under the foregoing subsection shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld or as to what conditions, including payment of compensation, should be attached to the consent, either party may require that it shall be referred to a single arbiter to be appointed, in default of agreement, by the President of the Institution of Civil Engineers, and the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings.

(3) Nothing in this section shall be construed as limiting the powers of a local authority under section 41 below.

(4) In this section “statutory undertakers” and “statutory undertaking” have the meanings assigned to them by section 113(1) of the Town and Country Planning (Scotland) Act 1947. 1947 c. 53.

23. Sections 71 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (which restrict the working of minerals, subject to the payment of compensation), as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall apply Restriction on working of minerals. 1845 c. 33. 1923 c. 20.

PART I in relation to any public sewers, public sewage treatment works and public drains to which they do not already apply with the substitution—

- (a) for references to the railway of references to the sewers, works and drains ;
- (b) for references to the company of references to the local authority in whom the sewers, works or drains are vested.

PART II

TRADE EFFLUENTS

Right to discharge into public sewers

Right to discharge into public sewers.

24.—(1) Subject to the provisions of this Act, the occupier of any trade premises within the area of a local authority may discharge into the sewers or sewage treatment works of the authority any trade effluent from those premises.

(2) Any occupier of trade premises who discharges trade effluent into the sewers or sewage treatment works of a local authority without the consent of the authority, where such consent is required, or contrary to any direction given or condition imposed by virtue of any provision of this Part of this Act, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and a further fine not exceeding £20 for each day on which the offence continues after conviction therefor.

Control of new discharges

Meaning of new discharge.

25. In this Part of this Act, “ new discharge ” means a discharge from trade premises into the sewers or sewage treatment works of a local authority of trade effluent where the discharge—

- (a) has not previously been lawfully made into such sewers or works ; or
- (b) not being an existing discharge by virtue of the proviso to section 33(1) below and whether commenced before or after the commencement of this section, has become substantially altered in nature or composition or whose temperature, volume or rate of discharge has been substantially increased since the commencement of this section ; or
- (c) has been discontinued for a period of two years or more, the whole or part of which period occurs after the commencement of this section, and is thereafter resumed.

New discharge only with consent of the authority.

26. Subject to section 37 below, an occupier or prospective occupier of trade premises who proposes to make a new discharge of trade effluent from those premises into the sewers

or sewage treatment works of a local authority shall obtain the consent of the authority to the discharge, which shall be applied for in accordance with section 27 below.

27.—(1) An application for the consent of a local authority under section 26 above shall be made by serving a notice on the authority (hereafter in this Part of this Act referred to as a “trade effluent notice”).

Procedure on application for consent to new discharge.

(2) A trade effluent notice shall state so far as is reasonably practicable—

- (a) the nature, composition and temperature of the effluent ;
- (b) the maximum quantity of the effluent which it is proposed to discharge on any one day ;
- (c) the maximum hourly rate at which it is proposed to discharge the effluent.

(3) Where the person applying for the consent of the authority is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on the authority under subsection (1) above, send a copy of the notice to the owner of the premises and inform him that he may make representations in respect of the application to the authority within 28 days of receipt of the copy.

(4) The authority on receiving a trade effluent notice shall forthwith send a copy of the notice to—

- (a) any other local authority into whose sewers or sewage treatment works the new discharge will in due course be made (hereafter in this section referred to as a “second authority”), and
- (b) any other body acting under statutory powers which, in the opinion of the authority, has an interest in the application,

and at the same time shall inform the second authority or any body to which a copy of the notice is sent in pursuance of this subsection that they may make representations in respect of the application to the authority within 28 days of receipt of the copy.

(5) The authority before making a decision on an application shall take into account any representations made in pursuance of subsections (3) and (4) above.

(6) Where the authority propose in their decision not to give effect to any representations made by a second authority under subsection (4) above, they shall forthwith inform the second authority accordingly ; and if the second authority are dissatisfied with that proposal they may, within 7 days of being so informed, refer the matter to the Secretary of State whose decision in the matter shall be final.

PART II
Time to
dispose of
application.

28.—(1) An application for the consent of a local authority under section 26 above shall, subject to the following subsection, be decided by them and intimated in accordance with section 30 below within a period of 3 months of the receipt by them of a trade effluent notice.

(2) Any such application which has been the subject of a reference to the Secretary of State under section 27(6) above shall be decided and so intimated by the authority within a period of 28 days of the receipt by them of the Secretary of State's decision under the said section 27(6).

Decision on
application.

29.—(1) A local authority in their decision on an application under section 26 above may refuse their consent or they may grant their consent either unconditionally or subject to such conditions as they may think fit to impose.

(2) Where the authority have failed to intimate their decision on an application within the 3 month period referred to in subsection (1), or, as the case may be, the 28 day period referred to in subsection (2), of section 28 above, they shall be deemed to have made a decision on the last day of that period refusing their consent to the application.

(3) Without prejudice to subsection (1) above, the authority in granting their consent may impose conditions relating to—

- (a) the sewers into which any trade effluent may be discharged ;
- (b) the nature or composition of any trade effluent which may be discharged ;
- (c) the maximum quantity of any trade effluent which may be discharged on any one day, either generally or into a particular sewer ;
- (d) the maximum hourly rate at which any trade effluent may be discharged, either generally or into a particular sewer ;
- (e) the period or periods of the day during which any trade effluent may be discharged into the sewers ;
- (f) the elimination from or the diminution in any trade effluent of cooling water ;
- (g) the prevention of any injury to the health of persons engaged in carrying out the functions of the authority under this Act as a result of the discharge of any trade effluent into the sewers ;
- (h) the elimination or diminution of any specified constituent of any trade effluent, before it enters the sewers, where the authority are satisfied that that constituent would, either alone or in combination with any matter

with which it is likely to come into contact while passing through any sewers—

- (i) injure or obstruct those sewers, or make specially difficult or expensive the treatment or disposal of the sewage from those sewers, or
- (ii) (where the trade effluent is to be discharged into sewers having an outfall in any harbour or in any waters below high water mark of ordinary spring tides or into sewers which connect directly or indirectly with sewers having such an outfall) cause or tend to cause injury or obstruction to the navigation on, or the use of, the said harbour or waters ;
- (i) the temperature of any trade effluent at the time when it is discharged into the sewers and its acidity or alkalinity at that time ;
- (j) the payment by the occupier of the trade premises to the authority of charges for the reception of any trade effluent into the sewers, and for the treatment and disposal thereof, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent so discharged, to any additional expense incurred or likely to be incurred by the authority in connection with the reception, treatment or disposal of the trade effluent or in connection with the provision already made by them for the treatment and disposal of trade effluent in their area, and to any revenue likely to be derived by the authority from the trade effluent ;
- (k) the provision and maintenance of such inspection chambers or manholes as will enable a person readily to take at any time samples of any effluent passing into the sewers from the trade premises ;
- (l) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewers and for the testing of such meters ;
- (m) the provision and maintenance of apparatus for determining the nature, composition and temperature of any trade effluent being discharged from the premises into the sewers and for the testing of the apparatus ;
- (n) the keeping of records of the volume, rate of discharge, nature, composition and temperature of any trade effluent being so discharged, and in particular the keeping of records of readings of meters and other recording apparatus provided in compliance with any

PART II

other condition imposed in connection with the consent ;

- (o) the making of returns and giving of other information to the authority concerning the volume, rate of discharge, nature, composition and temperature of any trade effluent so discharged.

(4) A consent granted under this section, and (where such consent is granted subject to any conditions) all or any of the conditions, may be made to take effect as from a specified date or for a specified period, being not less than two years, or both as from a specified date and for such a specified period.

(5) Any decision of an authority under this section shall continue to be effective notwithstanding that there has been a change of ownership or occupancy of the premises to which the decision relates.

(6) Where an application under section 26 above is for the consent of the authority to an increase of volume or rate of discharge of a discharge which is already being made lawfully, no decision of the authority under this section shall have the effect of restricting the discharge already being made.

(7) In this section, any reference to a sewer or sewers includes a reference to sewage treatment works, and "harbour" has the same meaning as in section 57 of the Harbours Act 1964.

1964 c. 40.

Intimation
of decision.

30.—(1) A local authority shall intimate their decision under section 29 above, and the reasons therefor, to the owner and occupier or prospective occupier of the trade premises in question and to any authority or other body to which a copy of the trade effluent notice was sent under section 27(4) above.

- (2) An intimation of a decision under this section shall—
- (a) draw attention to the provisions of section 29(5) above ;
 - (b) refer to the applicant's right of appeal against, and the power of review of, the decision under this Part of this Act.

Appeal
against
refusals and
conditions.

31. Where the applicant for consent under section 26 above is aggrieved by the decision of the local authority under section 29 above, he may appeal to the Secretary of State, who may dispose of the appeal in any way competent to the authority in their decision on the application.

Review of
consents,
conditions
and refusals.

32.—(1) A local authority may, and when requested so to do by the occupier of the premises in question shall, by direction review a decision made by them under section 29 above.

(2) Before making a direction under this section, the local authority shall intimate to the owner and occupier of the

premises in question that they propose to make such a direction, and their reasons therefor, and inform the owner and occupier that they may, within 28 days of receipt of the intimation, make representations to the authority in respect of the proposals.

(3) Before making such a direction the authority shall take into account any representations made in pursuance of subsection (2) above.

(4) Section 29 above except subsection (2), and section 30 above except subsection (1) so far as relating to intimation to any authority or other body, shall, with any necessary modifications, apply to such a direction as they apply to a decision under the said section 29.

(5) No review under this section may take place earlier than two years after the making of a decision under the said section 29, and thereafter reviews may take place at intervals of not less than two years, unless in either case the authority and the applicant otherwise agree in writing.

(6) A direction under this section shall take effect from a date specified therein, but not earlier than 3 months after the date of the direction.

(7) Where a direction is made under this section relating to the discharge of trade effluent from any premises, the occupier of the premises may appeal against the direction to the Secretary of State, who may dispose of the appeal in any way competent to the authority in making the direction.

Control of existing discharges

33.—(1) In this Part of this Act, “existing discharge” means a discharge of trade effluent from trade premises into the sewers or sewage treatment works of a local authority which was lawfully made within the period of two years ending on the date of the commencement of this section:

Meaning of existing discharge.

Provided that where before the said date the local authority and the person making the discharge have agreed that after that date the nature or composition of the discharge may be altered or the temperature, volume or rate of discharge may be increased, any discharge made in accordance with such agreement shall be treated for the purposes of this Part of this Act as an existing discharge.

(2) Any dispute between the local authority and the person making the discharge as to whether the discharge is an existing discharge shall be determined by the sheriff, against whose determination an appeal shall lie to the Court of Session.

34. Subject to this Part of this Act, and except where the local authority and the person making the discharge otherwise agree, an existing discharge shall be allowed to continue.

Right to continue existing discharge.

PART II
Furnishing of
information.

35. The owner or occupier of premises from which an existing discharge is being made shall, when requested in writing to do so by the local authority, furnish such information to the authority concerning the discharge as an applicant for consent to a new discharge is required to furnish in a trade effluent notice under section 27(2) above, and information concerning the period for which the discharge has continued.

Review of
continuation
of existing
discharge.

36.—(1) A local authority may, and when requested by the person making the discharge shall, review the making of an existing discharge and may direct that any continuation of the discharge shall be either unconditional or subject to such conditions as they may think fit to impose.

(2) The authority may by direction from time to time, and when requested by the person making the discharge shall, review a direction under the foregoing subsection, but, unless the local authority and the person making the discharge otherwise agree in writing, reviews under this subsection shall not take place at intervals of less than two years.

(3) Section 29 above, except subsection (1) so far as relating to the refusal of consent and subsection (2), and section 30 above shall, with any necessary modifications, apply to a direction under this section as they apply to a decision under the said section 29; and subsections (2), (3) and (6), and subject to subsection (4) below, subsection (7) of section 32 above, shall apply to such a direction as they apply to a direction under the said section 32.

(4) Where the authority have directed under subsection (1) above that the continuation of the discharge shall be subject to conditions imposed by them which did not previously apply to the making of the discharge, and an appeal is made against the imposition of those conditions, it shall be for the authority to establish that the circumstances of the making of the discharge or its reception, treatment or disposal are so altered as compared with those pertaining before the date of the commencement of section 33 above that it is reasonable that those conditions should be imposed.

Agreements in lieu of applications for consent

Agreements as
respects trade
premises.

37.—(1) A local authority may enter into an agreement with the owner or occupier of any trade premises within their area for the reception, treatment or disposal by the authority of any trade effluent produced on those premises.

(2) The reference in the foregoing subsection to an agreement shall include a reference to an agreement varying or renewing an existing agreement, whether that existing agreement was entered into before or after the commencement of this section.

(3) Where a local authority propose to enter into an agreement under this section with an occupier who is not also the owner of trade premises, the authority shall intimate the proposal to the owner who may, within 28 days of receipt of the intimation, make representations in respect of the proposal.

(4) Before the local authority and such an occupier as is mentioned in subsection (3) above enter into an agreement under this section, the authority shall take into account any representations made by the owner of the premises in question in pursuance of that subsection.

(5) Without prejudice to subsection (1) above, any agreement under this section may provide for—

- (a) the construction by the authority of such works as may be required for the reception, treatment or disposal of trade effluent ;
- (b) the removal and disposal by the authority of substances produced in the course of treating any trade effluent on or in connection with the premises ;
- (c) the repayment by the owner or, as the case may be, occupier of the premises of the whole or part of the expenses incurred by the authority in carrying out their obligations under the agreement.

(6) A discharge of trade effluent which is made in accordance with an agreement under this section shall not otherwise require the consent of the local authority nor may the making of such a discharge be reviewed by the direction of the authority ; and accordingly sections 26 to 32 and 36 above shall not apply to such a discharge.

(7) If the parties to an agreement under this section have failed to renew the agreement, with or without variation, on or before the date of its expiry, the authority may, and if requested by the person making the discharge shall, review the making of the discharge by direction ; and subsections (2) to (7) of section 32 above shall, with any necessary modifications, apply to a direction under this subsection.

(8) Until a direction has been made under subsection (7) above in respect of an agreement, a discharge may continue to be made in accordance with the agreement.

(9) Any reference in this section to an occupier shall include a reference to a prospective occupier.

Supplementary

38.—(1) The Secretary of State may by order made by statutory instrument provide that this Part of this Act shall apply in relation to liquid or other matter of any description specified in the order which is discharged from any premises into the sewers or sewage

Power to extend Part II to other effluents.

PART II

treatment works of a local authority as they apply in relation to trade effluent, but subject to such modifications, if any, as may be specified in the order, and in particular subject to any modification of the definition of trade premises in this Act which may be so specified.

(2) An order under this section may designate particular premises in the area of the authority, or may be made to apply to premises throughout the area, or to premises in any part of the area specified in the order.

(3) Before making an order under this section, the Secretary of State shall consult such local authorities, river purification authorities, trade organisations and other persons as the Secretary of State considers may have an interest in the order, and, where, in pursuance of subsection (2) above, the order designates particular premises, shall consult the owner and occupier thereof.

(4) The Secretary of State may include in an order under this section such provisions as appear to him expedient for modifying any enactment relating to sewerage as that enactment applies in relation to the discharge into sewers of any liquid or other matter to which any provisions of this Part of this Act are applied by an order under this section.

(5) The Secretary of State may include in an order under this section such transitional, supplemental and incidental provisions as appear to him to be expedient.

(6) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

PART III

MISCELLANEOUS AND GENERAL

Local authority to have right to sewage.

39. A local authority shall have right to all sewage discharged into their sewers or sewage treatment works and to the contents of any septic tank emptied by them under section 10(1) above and may process, sell or otherwise dispose of such sewage or contents.

Powers of local authorities as to research and publicity.

40. Any local authority may—

- (a) undertake, or contribute towards the cost of, investigations and research relevant to the problems of sewerage and sewage purification ;
- (b) arrange for the publication of information on those problems ;
- (c) arrange for the delivery of lectures and addresses, and the holding of discussions, on those problems ;

- (d) arrange for the display of pictures, cinematograph films or models, or the holding of exhibitions relating to those problems ; and
- (e) 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.

PART III

41. Subject to the provisions of the Public Utilities Street Works Act 1950, a local authority or other person may, for the purpose of taking any action or executing work authorised or required by this Act in relation to sewers, drains or sewage treatment works, break open the carriageway and footways of any street and of any bridge carrying a street, and any cellar or vault below any street, and any sewer, drain or tunnel in or under any such carriageway or footway, and may remove and use the soil or other materials in or under any such carriageway or footway :

Breaking open of streets, etc. 1950 c. 39.

Provided that they shall, in the exercise of the powers conferred by this section, cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by the sheriff summarily, whose decision in the matter shall be final.

42.—(1) Where by virtue of this Act or anything done thereunder a person is authorised or required to carry out any works, the local authority concerned may carry out those works at the request of that person and may recover from him their reasonable expenses for so doing.

Execution of works by local authorities for other persons.

(2) In carrying out such works the local authority shall have all the rights and powers which the person who made the request as aforesaid would have in relation thereto.

43. If on a complaint by the owner of any premises it appears to the sheriff that the occupier of those premises prevents the owner from executing any work which he is required or authorised to execute by or under this Act, the sheriff may authorise the owner to enter the premises for the purpose of executing the work.

Power to require occupier to permit works to be executed by owner.

44. A local authority may, for the purpose of enabling them to perform any of their functions under this Act, require the occupier or owner of any premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as owner, tenant, heritable creditor or otherwise, and any person who having been required by a local authority in pursuance of this section to give them any information fails to give them that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20.

Power of local authorities to require information as to ownership etc. of premises.

PART III
Production of
plans and
furnishing of
information
to authorities.

45.—(1) The owner or occupier of any land on or under which is situated any sewer or drain used or intended to be used for discharging any sewage into a sewer or sewage treatment works of a local authority shall, when requested in writing so to do by the authority—

(a) produce to the authority all such plans of the sewer or drain as the owner or occupier, as the case may be, possesses or is able without unreasonable expense to obtain, and allow copies of the plans so produced by him to be made by, or under the direction of, the authority, and

(b) furnish to the authority all such information as the owner or occupier, as the case may be, can reasonably be expected to supply with respect to the sewer or drain and any sewage discharged therefrom.

(2) A person who fails to comply with this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20.

Certain matter
not to be
passed into
drains.

46.—(1) Without prejudice to the provisions of Part II of this Act, no person shall pass or permit to be passed into, or into a drain connecting with, a public sewer or public sewage treatment works any matter or substance which, either alone or in combination with any matter or substance with which it is likely to come into contact while passing through any sewer or works, is likely to injure the sewer or works, or to interfere with the free flow of their contents, or to affect prejudicially the treatment or disposal of their contents or to be prejudicial to health:

Provided that it shall be a defence for any person charged with an offence under this section if he proves that at the time he so passed or permitted to be passed the matter or substance concerned he did not know, and could not reasonably be expected to know, that it would be likely to have the aforementioned effects.

(2) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20 and a further fine not exceeding £10 for each day on which the offence continues after conviction therefor.

Recovery of
expenses
by local
authority.

47.—(1) Where a local authority have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable either under this Act, or by agreement with the authority, then, without prejudice to any other remedy for, or any preference with respect to, the recovery thereof, they may, on giving not less than 14 days' notice to the owner, make an order (in this section referred to as a "charging order") declaring that the premises and any

land held in connection therewith are thereby charged and burdened with an annuity to repay the amount of the expenditure together with the expenses of obtaining the charging order and recording it in the Register of Sasines.

PART III

(2) The provisions of subsection (2) and subsections (4) to (9) of section 55 of the Water (Scotland) Act 1946 (which relates to charging orders) shall, with the following and any other necessary modifications, apply to a charging order made under the foregoing subsection—

- (a) for references to a house there shall be substituted references to premises ; and
- (b) for references to Part III of the said Act of 1946 there shall be substituted references to this Act.

(3) Sections 56 and 57 of the said Act of 1946 (recovery of expenses and limitation of liability) shall apply for the purposes of recovery of expenses for the repayment of which an owner of premises is liable under this Act, or by agreement with a local authority, as they apply for the purposes of recovery of expenses for the repayment of which an owner is liable under Part III of that Act.

48.—(1) Subject to the provisions of this section, an authorised officer of a local authority shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any land or premises at all reasonable hours for the purpose of—

Powers of entry.

- (a) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the laying of a sewer or the construction of other works under this Act ;
- (b) ascertaining whether there is or has been on or in connection with the land or premises any contravention of the provisions of this Act or of any conditions imposed thereunder ;
- (c) ascertaining whether or not circumstances exist which would authorise the authority to take any action or execute any work under this Act ;
- (d) taking any action or executing any work authorised or required by this Act to be taken or executed by the authority ;
- (e) inspecting any records and other documents and apparatus which the authority may reasonably require to inspect for the purpose of exercising any of their functions under this Act ;
- (f) taking away for analysis samples of sewage or any other matter or substance which is passing from the

PART III

premises into the sewers or sewage treatment works of the authority.

1961 c. 34.

(2) Entry to land or premises not being a factory within the meaning of the Factories Act 1961, or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless at least 24 hours notice of the intended entry has been given to the occupier.

(3) Before entering upon land or premises for any of the purposes mentioned in subsection (1)(a) above the local authority shall serve notice of the intended entry upon the owner and occupier, who within 14 days of the receipt of the notice may make representations to the Secretary of State, who, having considered any such representations, may authorise the entry either unconditionally or subject to such conditions as he thinks fit, or refuse to authorise it.

Every notice under this subsection shall inform the owner and occupier of their right to make representations to the Secretary of State.

(4) A person carrying out an inspection of documents under subsection (1)(e) above shall have a right to take copies or extracts from the documents.

(5) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering the land or premises on a subsequent occasion in connection with that purpose.

(6) If it is shown to the satisfaction of the sheriff, or a magistrate or justice of the peace having jurisdiction in the place where the land or premises are situated, on a sworn information in writing—

(a) that admission to land or premises which any person is entitled to enter by virtue of this section has been refused to that person, or that refusal is apprehended, or that the land or premises are unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry, and

(b) that there are reasonable grounds for entry to the land or premises for any purpose for which the right of entry is exercisable,

the sheriff, magistrate or justice may by warrant under his hand authorise that person to enter the land or premises if need be by force.

(7) Any person entitled to enter any land or premises, by virtue of a right of entry or of a warrant issued under this section, may take with him such other persons as may be necessary,

and on leaving any unoccupied land or premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

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(8) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(9) A person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this section or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20 and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.

(10) Where work has been carried out on land in pursuance of this section the local authority shall, as soon as possible, reinstate the land.

49.—(1) Subject to subsection (2) below, the result of any analysis of a sample taken under section 48(1)(f) above shall not be admissible as evidence in any legal proceedings in respect of sewage or other matter or substance discharged from any premises unless the person taking the sample—

Admissibility of samples as evidence.

- (a) forthwith notifies to the occupier of the premises his intention to have it analysed;
- (b) there and then divides the sample into three parts and causes each part to be placed in a container which is sealed and marked; and
- (c) delivers one part to the occupier of the premises, retains one part for future comparison, and, if he thinks fit to have an analysis made, submits one part to the analyst.

(2) If it is not reasonably practicable for the person taking the sample forthwith to notify to the occupier of the premises his intention to have it analysed, the foregoing subsection shall be construed as requiring the matters specified in paragraphs (a) to (c) thereof to be done as soon as is reasonably practicable.

(3) In this section any reference to an analysis shall be construed as including a reference to any test of whatever kind, and “analysed” and “analyst” shall be construed accordingly.

50.—(1) If any person who, in compliance with any of the provisions of this Act or with a warrant issued thereunder, is admitted to any land or premises makes use of or discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such use or disclosure was made in the performance of his duty, be guilty of an offence under this section.

Restriction on disclosure of information.

PART III

(2) If any person discloses any information which has been furnished to him under this Act, he shall be guilty of an offence under this section, unless the disclosure is made—

- (a) with the consent of the person by whom the information was furnished ; or
- (b) in connection with the execution of this Act ; or
- (c) for the purposes of any proceedings arising out of this Act, or of any criminal proceedings whether so arising or not, or for the purpose of any report of any such proceedings.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment.

Procedure on
appeals to
Secretary of
State.

51.—(1) Any appeal to the Secretary of State under this Act shall be made, unless the parties to the appeal otherwise agree, within 28 days of the decision against which the appeal is made.

(2) At the same time as an appellant makes any such appeal under this Act he shall serve a copy of the appeal on the local authority.

(3) Before disposing of any such appeal the Secretary of State may afford to the appellant and the authority an opportunity of appearing before and being heard by a person appointed in that behalf by the Secretary of State.

(4) The decision of the Secretary of State on any such appeal shall be deemed to be the decision of the local authority from whom the appeal is made.

(5) The decision of the Secretary of State on any such appeal shall be final, but at any stage of the proceedings on the appeal he may, and if so directed by the Court of Session shall, state a case for the opinion of the Court on any question of law arising in those proceedings.

(6) Pending a decision on any appeal to the Secretary of State under Part II of this Act a discharge of trade effluent being made may continue to be made in accordance with the conditions then applying.

Exemption
from stamp
duties.

52. Any conveyance, lease, bond, mortgage, assignation, agreement, receipt or other document granted or made for any of the purposes of this Act by, to or in favour of a local authority shall be exempt from all stamp duties.

Notices etc. to
be in writing.

53. All notices, directions, decisions, applications, appeals and agreements given or made under this Act by a local authority, or an owner, occupier or prospective occupier of premises, and

other documents which are given, made, served, authorised or required under this Act shall be in writing. PART III

54.—(1) Subject to subsection (2) below, where any local enactment provides for any matter which is also provided for by any provision of this Act or of any order made thereunder, the provision of this Act, or, as the case may be, of that order, shall have effect in substitution for the local enactment, which shall cease to have effect. Local enactments.

(2) The Secretary of State may by order except from the operation of the foregoing subsection such local enactments as may be specified in the order and direct that the corresponding provisions of this Act or of any order made thereunder as may be so specified shall not have effect in the areas in which the specified local enactments have effect.

(3) If it appears to the Secretary of State that any local enactment, not being an enactment which has ceased to have effect by virtue of subsection (1) above, is inconsistent with any provision of this Act or of any order made thereunder, or is no longer required, or requires to be amended, having regard to any provision of this Act or of any order made thereunder, he may by order repeal or amend the local enactment as he may consider appropriate.

(4) Any order made under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

55.—(1) The provisions of this section shall apply in relation to any premises belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department. Application of Act to Crown premises.

(2) The appropriate authority in relation to any premises and the local authority for the area in which the premises are situated may agree that any provisions of this Act specified in the agreement shall apply to those premises and, while the agreement is in force, those provisions shall apply to the premises accordingly, subject however to the terms of the agreement.

(3) Any such agreement as aforesaid may contain such consequential and incidental provisions, including, with the approval of the Treasury, provisions of a financial character, as appear to the appropriate authority to be necessary or equitable, but agreements made by the Crown Estate Commissioners or the Postmaster General shall not require such approval.

(4) In this section “ the appropriate authority ” means—

(a) in the case of premises belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners

PART III

or other government department having the management of the premises in question ; and

- (b) in the case of premises belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department ;

and, if any question arises as to what authority is the appropriate authority in relation to any premises, that question shall be referred to the Treasury, whose decision shall be final.

Saving for Coast
Protection Act
1949.
1949 c. 74.

56. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (restriction of works detrimental to navigation).

Expenses.

57. There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any other Act.

Orders.

58. Any power conferred on the Secretary of State by this Act to make an order shall include power, exercisable in like manner and subject to the same conditions, to vary or revoke the order by a subsequent order.

Interpretation.

59.—(1) In this Act, unless the context otherwise requires—

“appointed day” means such day as the Secretary of State may by order made by statutory instrument appoint ;

“area” in relation to a local authority means, in the case of a county council, the landward area of the county and, in the case of a town council, the burgh ;

“authorised officer” means, as respects any council, an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind, or in any specified matter :

Provided that the medical officer of health, surveyor and sanitary inspector of a council shall, by virtue of their appointments, be deemed to be authorised officers for the purpose of matters within their respective provinces ;

“burgh rate” has the same meaning as in section 224(1) of the Local Government (Scotland) Act 1947 ;

“county rate” has the same meaning as in section 224(1) of the Local Government (Scotland) Act 1947 ;

“domestic sewage” in relation to any area or premises means sewage which is not surface water or trade effluent ;

“drain” in relation to premises, means any pipe or drain within the curtilage of those premises used solely for or

1947 c. 43.

- in connection with the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage ;
- “ foul water ” means any water contaminated by domestic sewage or trade effluent ;
- “ function ” includes power and duty ;
- “ land ” includes land covered with water and any interest or right in or over land ;
- “ local authority ” means a county council or a town council ;
- “ local enactment ” means any local Act of Parliament or any provision in any such Act ;
- “ occupier ” means the person in occupation or having the charge, management or control of premises, either on his own account or as the agent of another person ;
- “ owner ” means the person for the time being entitled to receive, or who would, if the same were let, be entitled to receive, the rents of the premises, and includes a trustee, factor, tutor or curator, and in the case of public or municipal property applies to the persons to whom the management thereof is entrusted ;
- “ private sewage treatment works ” means sewage treatment works which are not vested in a local authority ;
- “ private sewer ” means any sewer which is not a public sewer ;
- “ public drain ” means any drain which is vested in a local authority ;
- “ public sewage treatment works ” means sewage treatment works which are vested in a local authority ;
- “ public sewer ” means any sewer which is vested in a local authority ;
- “ river purification authority ” has the same meaning as in section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951 ;
- “ sewage ” includes domestic sewage, surface water and trade effluent ;
- “ sewage treatment works ” means any works, apparatus or plant used for the treatment or disposal of sewage, and includes a septic tank ;
- “ sewer ” does not include a drain as defined in this section, but, save as aforesaid, includes all sewers, pipes or drains used for the drainage of buildings and yards appurtenant to buildings ;
- “ special district sewer rate ” has the same meaning as in section 225(1) of the Local Government (Scotland) Act 1947 c. 43. Act 1947 ;

PART III

“street” includes any road, including a road over any bridge, and any lane, footway, subway, square, court, alley, passage or length of land laid out as a way whether it is for the time being formed as a way or not, irrespective of whether the road or other thing in question is a thoroughfare or not ;

“surface water” means the run-off of rainwater from roofs and any paved ground surface within the curtilage of premises ;

“trade effluent” means any liquid, either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, including trade waste waters or waters heated in the course of any trade or industry and, in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises ;

“trade or industry” for the purpose of the definition of “trade effluent” shall include agriculture, horticulture and scientific research or experiment and the carrying on of a hospital or a nursing home, and for the purpose of the definition of “trade premises” shall include premises used or intended to be used in whole or in part for carrying on agriculture, horticulture or scientific research or experiment, or as a hospital or a nursing home ;

“trade premises” means any premises used or intended to be used for carrying on any trade or industry.

(2) Unless the context otherwise requires any reference in this Act to a drain or to a sewer shall be construed as including a reference to any manholes, ventilating shafts, pumping stations, storm water overflow pipes, outfall pipes or other accessories belonging to a drain or sewer, and any reference in this Act to sewage treatment works shall be construed as including a reference to accommodation used in connection therewith, the machinery and equipment of those works and any necessary pumping stations.

(3) Any reference in this Act to the construction of a sewer or sewage treatment works shall be construed as including a reference to the extension of an existing sewer or of existing works.

(4) Unless the context otherwise requires, any reference in this Act to any enactment is a reference to that enactment as amended by or under any subsequent enactment, including this Act.

60.—(1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act. PART III
Amendments
and repeals.

(2) The enactments described in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule, and so much of that Schedule as relates to the Local Government (Scotland) Act 1947 (so far as relating to the operation and dissolution of special drainage districts) shall come into force on the appointed day. 1947 c. 43.

61.—(1) This Act may be cited as the Sewerage (Scotland) Act 1968 and shall extend to Scotland only. Short title,
extent and
commence-
ment.

(2) This Act, except this section, shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint, and different dates may be appointed under this subsection for different provisions of this Act or for different purposes.

(3) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the date when that provision comes into force.

SCHEDULES

Section 60(1).

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

1897 c. 38.

The Public Health (Scotland) Act 1897

1. There shall be inserted at the end of section 28 the words, "Nothing in this section shall detract from any duty imposed or power conferred by the Sewerage (Scotland) Act 1968".

2. There shall be inserted at the beginning of section 116 the words "Subject to the provisions of Part II of the Sewerage (Scotland) Act 1968".

1947 c. 43.

The Local Government (Scotland) Act 1947

3. In Schedule 6, item 11, for the words "Section 139 of the Public Health (Scotland) Act 1897" there shall be substituted the words "The Sewerage (Scotland) Act 1968".

1960 c. 34.

The Radioactive Substances Act 1960

4. There shall be inserted at the end of Part II of Schedule 1 the words "17. The Sewerage (Scotland) Act 1968".

Section 60(2).

SCHEDULE 2

ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|-------------------------|--|---|
| 39 & 40 Vict. c. 75. | The Rivers Pollution Prevention Act 1876. | The whole Act. |
| 55 & 56 Vict. c. 55. | The Burgh Police (Scot- land) Act 1892. | In section 107, the word "sewers". In section 111, the words "and for cleansing the sewers and drains". Sections 214 to 222, 224, 225 and 227. In section 228, the words "No building shall be erected over any sewer belonging to the com- missioners", the words "and so as not to interfere or communi- cate with any sewers belong- ing to the commissioners", the words "any building be erec- ted", and the words "erecting such building". Sections 229 to 232. In section 233, the words from "guilty of" to "besides being". Sections 234 to 237 and section 242. In section 243 the words "drain or" wherever they occur, and the words from "and all branch drains" onwards. |

| Chapter | Short Title | Extent of Repeal |
|--------------------------------------|--|--|
| 55 & 56 Vict. c. 55— <i>cont.</i> | The Burgh Police (Scotland) Act 1892— <i>cont.</i> | <p>In section 250, the words “ and with power to make such drain if none such already exist ”, the words from “ the sanction ” to “ street; and ”, the words “ with the expense of restoring the street, so far as interfered with ”, and the words from “ with such ” to “ may fix ”.</p> <p>In section 329, the words from “ the special ” to “ sewers ”, the words “ rate or ”, and the word “ rate ”.</p> <p>In sections 330 and 331, the word “ rate ”.</p> <p>In section 332, the word “ rate ” where first occurring.</p> <p>Sections 361, 362 and 364.</p> <p>In section 366, the words “ special sewer rate, general sewer rate, and ”.</p> <p>In section 367, the words “ rates or ” wherever they occur.</p> <p>In section 368, the words “ special sewer rate, general sewer rate, and ”, the words “ rates and ”, and the words “ rated or ” and “ rates or ” wherever they occur.</p> <p>In section 369, the words “ rates or ” wherever they occur.</p> <p>Schedule VI so far as it relates to general sewer rate and special sewer rate.</p> |
| 60 & 61 Vict. c. 38. | The Public Health (Scotland) Act 1897. | <p>Sections 101 to 112, 114 and 115.</p> <p>In section 116, the words from “ or to use ” onwards.</p> <p>Sections 117, 119, 120, 122 and 139.</p> |
| 1 Edw. 7. c. 24. | The Burgh Sewerage, Drainage and Water Supply (Scotland) Act 1901. | The whole Act. |
| 3 Edw. 7. c. 33. | The Burgh Police (Scotland) Act 1903. | Section 25. |
| 10 & 11 Geo. 6. c. 43. | The Local Government (Scotland) Act 1947. | <p>In section 98(6), the words “ sewers, drains ”.</p> <p>Part VII, so far as relating to the formation, operation and dissolution of special drainage districts.</p> <p>Section 225(1) so far as relating to the special district sewer rate.</p> |
| 8 & 9 Eliz. 2. c. 34. | The Radioactive Substances Act 1960. | In Part II of Schedule 1, paragraph 10, in paragraph 11 the reference to section 222, and in paragraph 13 the reference to section 120. |



International Organisations Act 1968

1968 CHAPTER 48

An Act to make new provision (in substitution for the International Organisations (Immunities and Privileges) Act 1950 and the European Coal and Steel Community Act 1955) as to privileges, immunities and facilities to be accorded in respect of certain international organisations and in respect of persons connected with such organisations and other persons; and for purposes connected with the matters aforesaid. [26th July 1968]

BE IT ENACTED by the Queen's most Excellent Majesty, by an 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) This section shall apply to any organisation declared by Order in Council to be an organisation of which—

(a) the United Kingdom, or Her Majesty's Government in the United Kingdom, and

(b) one or more foreign sovereign Powers, or the Government or Governments of one or more such Powers,

are members.

(2) Subject to subsection (6) of this section, Her Majesty may by Order in Council made under this subsection specify an organisation to which this section applies and make any one or more of the following provisions in respect of the organisation so specified (in the following provisions of this section referred to as "the organisation"), that is to say—

(a) confer on the organisation the legal capacities of a body corporate ;

(b) provide that the organisation shall, to such extent as may be specified in the Order, have the privileges and immunities set out in Part I of Schedule 1 to this Act ;

Organisations
of which
United
Kingdom is
a member.

- (c) confer the privileges and immunities set out in Part II of Schedule 1 to this Act, to such extent as may be specified in the Order, on persons of any such class as is mentioned in the next following subsection ;
- (d) confer the privileges and immunities set out in Part III of Schedule 1 to this Act, to such extent as may be specified in the Order, on such classes of officers and servants of the organisation (not being classes mentioned in the next following subsection) as may be so specified.

(3) The classes of persons referred to in subsection (2)(c) of this section are—

- (a) persons who (whether they represent Governments or not) are representatives to the organisation or representatives on, or members of, any organ, committee or other subordinate body of the organisation (including any sub-committee or other subordinate body of a subordinate body of the organisation) ;
- (b) such number of officers of the organisation as may be specified in the Order, being the holders (whether permanent, temporary or acting) of such high offices in the organisation as may be so specified ; and
- (c) persons employed by or serving under the organisation as experts or as persons engaged on missions for the organisation.

(4) Where an Order in Council is made under subsection (2) of this section, the provisions of Part IV of Schedule 1 to this Act shall have effect by virtue of that Order (in those provisions, as they so have effect, referred to as “the relevant Order”), except in so far as that Order otherwise provides.

(5) Where an Order in Council is made under subsection (2) of this section, then for the purpose of giving effect to any agreement made in that behalf between the United Kingdom or Her Majesty's Government in the United Kingdom and the organisation Her Majesty may by the same or any subsequent Order in Council make either or both of the following provisions, that is to say—

- (a) confer the exemptions set out in paragraph 13 of Schedule 1 to this Act, to such extent as may be specified in the Order, in respect of officers and servants of the organisation of any class specified in the Order in accordance with subsection (2)(d) of this section and in respect of members of the family of any such officer or servant who form part of his household ;

(b) confer the exemptions set out in Part V of that Schedule in respect of—

(i) members of the staff of the organisation recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent, and

(ii) members of the family of any such member of the staff of the organisation who form part of his household.

(6) Any Order in Council made under subsection (2) or subsection (5) of this section shall be so framed as to secure—

(a) that the privileges and immunities conferred by the Order are not greater in extent than those which, at the time when the Order takes effect, are required to be conferred in accordance with any agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is then a party (whether made with one or more other foreign sovereign Powers or Governments or made with one or more organisations such as are mentioned in subsection (1) of this section), and

(b) that no privilege or immunity is conferred on any person as the representative of the United Kingdom, or of Her Majesty's Government in the United Kingdom, or as a member of the staff of such a representative.

2.—(1) Where an Order in Council under section 1(2) of this Act is made in respect of an organisation which is a specialised agency of the United Nations having its headquarters or principal office in the United Kingdom, then for the purpose of giving effect to any agreement between the United Kingdom or Her Majesty's Government in the United Kingdom and that organisation Her Majesty may by the same or any other Order in Council confer the exemptions, privileges and reliefs specified in the next following subsection, to such extent as may be specified in the Order, on officers of the organisation who are recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent.

Specialised
agencies of
United
Nations.

(2) The exemptions, privileges and reliefs referred to in the preceding subsection are—

(a) the like exemption or relief from income tax, capital gains tax and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent, and

(b) the exemptions, privileges and reliefs specified in paragraphs 10 to 12 of Schedule 1 to this Act.

(3) Where by virtue of subsection (1) of this section any of the exemptions, privileges and reliefs referred to in subsection (2)(b) of this section are conferred on persons as being officers of the organisation, Her Majesty may by the same or any other Order in Council confer the like exemptions, privileges and reliefs on persons who are members of the families of those persons and form part of their households.

(4) The powers conferred by the preceding provisions of this section shall be exercisable in addition to any power exercisable by virtue of subsection (2) or subsection (5) of section 1 of this Act; and any exercise of the powers conferred by those provisions shall have effect without prejudice to the operation of subsection (4) of that section.

(5) Subsection (6) of section 1 of this Act shall have effect in relation to the preceding provisions of this section as it has effect in relation to subsections (2) and (5) of that section.

(6) In this section "specialised agency" has the meaning assigned to it by Article 57 of the Charter of the United Nations.

Commission
of the
European
Communities.

3.—(1) In respect of the Commission of the European Communities (in this section referred to as "the Commission"), and in respect of the Council of Association between Her Majesty's Government in the United Kingdom and the Commission (in this section referred to as "the Council of Association"), Her Majesty may by Order in Council make any such provision as could be made under subsection (2) or subsection (5) of section 1 of this Act if—

(a) the Commission and the Council of Association were organisations to which that section applies, and

(b) the reference in subsection (5) of that section to the purpose of giving effect to an agreement, and paragraph (a) of subsection (6) of that section, were omitted.

(2) Where an Order in Council is made under subsection (1) of this section in respect of the Commission or the Council of Association, the provisions of Part IV of Schedule 1 to this Act shall, except in so far as that Order otherwise provides, have effect by virtue of that Order (in those provisions, as they so have effect, referred to as "the relevant Order") as if the Commission or the Council of Association, as the case may be, were an organisation to which section 1 of this Act applies.

(3) Without prejudice to subsection (2) of this section, where an Order in Council is made under subsection (1) of this section

Her Majesty may by the same or any other Order in Council confer—

- (a) the like exemption or relief from taxes and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent, and
- (b) the exemptions, privileges and reliefs specified in paragraphs 10 to 12 of Schedule 1 to this Act,

to such extent as may be specified in the Order, on officers of the Commission or of the Council of Association who are recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent ; and, where the exemptions, privileges and reliefs referred to in paragraph (b) of this subsection are so conferred on any such officers, Her Majesty may by the same or any other Order in Council confer the like exemptions, privileges and reliefs on persons who are members of the families of those officers and form part of their households.

(4) Any Order in Council under this section may, to such extent as the Order may provide, be made so as to have effect as from 6th July 1967 or any later date specified in the Order.

4. Where an organisation other than the Commission of the European Communities, of which two or more foreign sovereign Powers, or the Governments of two or more such Powers, are members but of which neither the United Kingdom nor Her Majesty's Government in the United Kingdom is a member, maintains or proposes to maintain an establishment in the United Kingdom, then for the purpose of giving effect to any agreement made in that behalf between the United Kingdom or Her Majesty's Government in the United Kingdom and that organisation, Her Majesty may by Order in Council specifying the organisation make either or both of the following provisions in respect of the organisation, that is to say—

Other organisations of which United Kingdom is not a member.

- (a) confer on the organisation the legal capacities of a body corporate, and
- (b) provide that the organisation shall, to such extent as may be specified in the Order, be entitled to the like exemption or relief from taxes on income and capital gains as is accorded to a foreign sovereign Power.

5.—(1) Her Majesty may by Order in Council confer on any class of persons to whom this section applies such privileges, immunities and facilities as in the opinion of Her Majesty in Council are or will be required for giving effect—

International judicial and other proceedings

- (a) to any agreement to which, at the time when the Order takes effect, the United Kingdom or Her Majesty's Gov-

ernment in the United Kingdom is or will be a party,
or

(b) to any resolution of the General Assembly of the United Nations.

(2) This section applies to any persons who are for the time being—

(a) judges or members of any international tribunal, or persons exercising or performing, or appointed (whether permanently or temporarily) to exercise or perform, any jurisdiction or functions of such a tribunal ;

(b) registrars or other officers of any international tribunal ;

(c) parties to any proceedings before any international tribunal ;

(d) agents, advisers or advocates (by whatever name called) for any such parties ;

(e) witnesses in, or assessors for the purposes of, any proceedings before any international tribunal.

(3) For the purposes of this section any petition, complaint or other communication which, with a view to action to be taken by or before an international tribunal,—

(a) is made to the tribunal, or

(b) is made to a person through whom, in accordance with the constitution, rules or practice of the tribunal, such a communication can be received by the tribunal,

shall be deemed to be proceedings before the tribunal, and the person making any such communication shall be deemed to be a party to such proceedings.

(4) Without prejudice to subsection (3) of this section, any reference in this section to a party to proceedings before an international tribunal shall be construed as including a reference to—

(a) any person who, for the purposes of any such proceedings, acts as next friend, guardian or other representative (by whatever name called) of a party to the proceedings, and

(b) any person who (not being a person to whom this section applies apart from this paragraph) is entitled or permitted, in accordance with the constitution, rules or practice of an international tribunal, to participate in proceedings before the tribunal by way of advising or assisting the tribunal in the proceedings.

(5) In this section “international tribunal” means any court (including the International Court of Justice), tribunal, commission or other body which, in pursuance of any such agreement or resolution as is mentioned in subsection (1) of this section,—

- (a) exercises, or is appointed (whether permanently or temporarily) for the purpose of exercising, any jurisdiction, or
- (b) performs, or is appointed (whether permanently or temporarily) for the purpose of performing, any functions of a judicial nature or by way of arbitration, conciliation or inquiry,

and includes any individual who, in pursuance of any such agreement or resolution, exercises or performs, or is appointed (whether permanently or temporarily) for the purpose of exercising or performing, any jurisdiction or any such functions.

6.—(1) This section applies to any conference which is, or is to be, held in the United Kingdom and is, or is to be, attended by representatives—

- (a) of the United Kingdom, or of Her Majesty’s Government in the United Kingdom, and
- (b) of one or more foreign sovereign Powers, or the Government or Governments of one or more such Powers.

Representatives at international conferences in United Kingdom.

(2) Her Majesty may by Order in Council specify one or more classes of persons who are, or are to be, representatives of a foreign sovereign Power, or of the Government of such a Power, at a conference to which this section applies, and confer on persons of the class or classes in question, to such extent as may be specified in the Order, the privileges and immunities set out in Part II of Schedule 1 to this Act.

(3) Where an Order in Council is made under subsection (2) of this section in relation to a particular conference, then, except in so far as that Order otherwise provides, the provisions of paragraphs 19 to 22 of Schedule 1 to this Act shall have effect in relation to members of the official staffs of persons of a class specified in the Order in accordance with that subsection as if in paragraph 19 of that Schedule “representative” were defined as a person of a class so specified in the Order.

7. So far as may be necessary for the purpose of giving effect to the International Telecommunication Convention done at Montreux on 12th November 1965 or any subsequent treaty or agreement whereby that Convention is amended or superseded, priority shall, wherever practicable, be given to messages from, Priority of telecommunications.

and to replies to messages from, any of the following, that is to say—

- (a) the Secretary General of the United Nations ;
- (b) the heads of principal organs of the United Nations ;
and
- (c) the International Court of Justice.

Evidence.

8. If in any proceedings a question arises whether a person is or is not entitled to any privilege or immunity by virtue of this Act or any Order in Council made thereunder, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

Financial provisions.

9. Any amount refunded under any arrangements made in accordance with any provisions of Schedule 1 to this Act relating to refund of customs duty or of purchase tax—

- (a) if the arrangements were made by the Secretary of State, shall be paid out of moneys provided by Parliament, or
- (b) if the arrangements were made by the Commissioners of Customs and Excise, shall be paid out of the moneys standing to the credit of the General Account of those Commissioners.

Orders in Council.

10.—(1) No recommendation shall be made to Her Majesty in Council to make an Order under any provision (other than section 6) of this Act unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(2) Any Order in Council made under section 6 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by any provision of this Act to make an Order in Council shall include power to revoke or vary the Order by a subsequent Order in Council made under that provision.

Interpretation.

11.—(1) In this Act “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964, and “the International Court of Justice” means the court set up by that name under the Charter of the United Nations.

1964 c. 81.

(2) Expressions used in this Act to which a meaning is assigned by Article 1 of the 1961 Convention Articles, and

other expressions which are used both in this Act and in those Articles, shall, except in so far as the context otherwise requires, be construed as having the same meanings in this Act as in those Articles.

(3) For the purpose of giving effect to any arrangements made in that behalf between Her Majesty's Government in the United Kingdom and any organisation, premises which are not premises of the organisation but are recognised by that Government as being temporarily occupied by the organisation for its official purposes shall, in respect of such period as may be determined in accordance with the arrangements, be treated for the purposes of this Act as if they were premises of the organisation.

(4) Except in so far as the context otherwise requires, any reference in this Act to an enactment is a reference to that enactment as amended or extended by or under any other enactment.

12.—(1) In the Civil Aviation (Eurocontrol) Act 1962, in section 2(2), for the words "the Schedule to the International Organisations (Immunities and Privileges) Act 1950" there shall be substituted the words "Schedule 1 to the International Organisations Act 1968".

(2) In the Consular Relations Act 1968, at the end of section 1(3) there shall be inserted the words "or the International Organisations Act 1968".

(3) References in any enactment to the powers conferred by the International Organisations (Immunities and Privileges) Act 1950 shall be construed as including references to the powers conferred by this Act.

(4) Subject to the following provisions of this section, the enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(5) Any Order in Council which has been made, or has effect as if made, under an enactment repealed by subsection (4) of this section and is in force immediately before the passing of this Act shall continue to have effect notwithstanding the repeal of that enactment and, while any such Order in Council continues to have effect in relation to an organisation,—

(a) the enactment in question shall continue to have effect in relation to that organisation as if that enactment had not been repealed, and

(b) section 8 of this Act shall have effect as if in that section any reference to this Act or an Order in Council made thereunder included a reference to that enactment or that Order in Council.

Consequential amendments, repeals and transitional provisions.
1962 c. 8.
1950 c. 14.
1968 c. 18.

(6) Any such Order in Council as is mentioned in subsection (5) of this section—

- 1950 c. 14.
- (a) if made, or having effect as if made, under section 1 of the International Organisations (Immunities and Privileges) Act 1950, may be revoked or varied as if it had been made under section 1 of this Act ;
 - (b) if made, or having effect as if made, under section 3 of that Act, may be revoked or varied as if it had been made under section 5 of this Act.

1955 c. 4
(4 & 5 Eliz. 2).

(7) The repeal of the European Coal and Steel Community Act 1955 by virtue of subsection (4) of this section shall not take effect before the earliest date on which an Order in Council is made under section 3 of this Act, and, if the first Order in Council made under that section is made so as to take effect on a date after that on which it is made, that repeal shall not take effect until the date on which that Order takes effect.

Short title **13.** This Act may be cited as the International Organisations Act 1968.

SCHEDULES

SCHEDULE 1

Sections 1, 2, 3, 6.

PRIVILEGES AND IMMUNITIES

PART I

Privileges and immunities of the organisation

1. Immunity from suit and legal process.

2. The like inviolability of official archives and premises of the organisation as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

3.—(1) Exemption or relief from taxes, other than customs duties and taxes on the importation of goods.

(2) The like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

4. Exemption from customs duties and taxes on the importation of goods imported by or on behalf of the organisation for its official use in the United Kingdom, or on the importation of any publications of the organisation imported by it or on its behalf, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the organisation for its official use and in the case of any publications of the organisation imported or exported by it.

6. Relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom and used for the official purposes of the organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements. 1952 c. 44.

7. Relief, under arrangements made by the Secretary of State, by way of refund of purchase tax paid on any goods which are used for the official purposes of the organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART II

Privileges and immunities of representatives, members of subordinate bodies, high officers, experts, and persons on missions

8. For the purpose of conferring on any person any such exemption, privilege or relief as is mentioned in any of the following paragraphs of this Part of this Schedule, any reference in that paragraph to the

SCH. 1 representative or officer shall be construed as a reference to that person.

9. The like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission.

10. The like exemption from customs duties and taxes on the importation of articles imported for the personal use of the representative or officer or of members of his family forming part of his household, including articles intended for his establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

11. The like exemption and privileges in respect of the personal baggage of the representative or officer as in accordance with paragraph 2 of Article 36 of those Articles are accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 10 of this Schedule.

1952 c. 44.

12. Relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom by or on behalf of the representative or officer, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

13. Exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1967, the National Insurance (Industrial Injuries) Acts 1965 to 1967, any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending any of those Acts,—

- (a) services rendered for the organisation by the representative or officer shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, but
- (b) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.

PART III

Privileges and immunities of other officers and servants

14. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

15. Exemption from income tax in respect of emoluments received as an officer or servant of the organisation.

16. The like exemption from customs duties and taxes on the importation of articles which— SCH. 1

- (a) at or about the time when an officer or servant of the organisation first enters the United Kingdom as such an officer or servant are imported for his personal use or that of members of his family forming part of his household, including articles intended for his establishment, and
- (b) are articles which were in his ownership or possession or that of such a member of his family, or which he or such a member of his family was under contract to purchase, immediately before he so entered the United Kingdom,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

17. Exemption from customs duties and taxes on the importation of any motor vehicle imported by way of replacement of a motor vehicle in respect of which the conditions specified in sub-paragraphs (a) and (b) of paragraph 16 of this Schedule were fulfilled, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

18. The like exemption and privileges in respect of the personal baggage of an officer or servant of the organisation as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 16 of this Schedule.

PART IV

Privileges and immunities of official staffs and of families of representatives, high officers and official staffs

19. In this Part of this Schedule—

- (a) “representative” means a person who is such a representative to the organisation specified in the relevant Order or such a representative on, or member of, an organ, committee or other subordinate body of that organisation as is mentioned in section 1(3)(a) of this Act ;
- (b) “member of the official staff” means a person who accompanies a representative as part of his official staff in his capacity as a representative.

20. A member of the official staff who is recognised by Her Majesty’s Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, the representative whom he accompanies is entitled to them.

21.—(1) Subject to sub-paragraph (2) of this paragraph, a member of the official staff who is not so recognised, and who is employed in the administrative or technical service of the representative whom he accompanies, shall be entitled to the privileges and

SCH. 1 immunities set out in paragraphs 9 and 13 of this Schedule to the like extent as, by virtue of the relevant Order, that representative is entitled to them.

(2) Such a member of the official staff shall not by virtue of the preceding sub-paragraph be entitled to immunity from any civil proceedings in respect of any cause of action arising otherwise than in the course of his official duties.

(3) Such a member of the official staff shall also be entitled to the exemption set out in paragraph 16 of this Schedule as if he were an officer of the organisation specified in the relevant Order.

22. A member of the official staff who is employed in the domestic service of the representative whom he accompanies shall be entitled to the following privileges and immunities, that is to say—

(a) immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties, and

(b) the exemptions set out in paragraph 13 of this Schedule, to the like extent as, by virtue of the relevant Order, that representative is entitled to them, and shall be entitled to exemption from taxes on his emoluments in respect of that employment to the like extent as, by virtue of the relevant Order, that representative is entitled to exemption from taxes on his emoluments as a representative.

23.—(1) Persons who are members of the family of a representative and form part of his household shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, that representative is entitled to them.

(2) Persons who are members of the family and form part of the household of an officer of the organisation specified in the relevant Order, where that officer is the holder (whether permanent, temporary or acting) of an office specified in that Order in accordance with section 1(3)(b) of this Act, shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, that officer is entitled to them.

(3) Persons who are members of the family and form part of the household of such a member of the official staff as is mentioned in paragraph 20 of this Schedule shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of that paragraph, that member of the official staff is entitled to them.

(4) Persons who are members of the family and form part of the household of such a member of the official staff as is mentioned in paragraph 21 of this Schedule shall be entitled to the privileges and immunities set out in paragraphs 9 and 13 of this Schedule to the like extent as, by virtue of paragraph 21 of this Schedule, that member of the official staff is entitled to them.

PART V

SCH. 1

Estate duty and capital gains tax on death

24. In the event of the death of the person in respect of whom the exemptions under this paragraph are conferred, exemptions from—

- (a) estate duty leviable on his death under the law of any part of the United Kingdom in respect of movable property which is in the United Kingdom immediately before his death and whose presence in the United Kingdom at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred, and
- (b) capital gains tax on chargeable gains which, by virtue of the operation of section 24 of the Finance Act 1965 in 1965 c. 25. relation to any such movable property, are included in the gains accruing to that person in the year of assessment in which he died.

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| 4 Eliz. 2. c. 2. | The German Conventions Act 1955. | Section 1(2). |
| 4 Eliz. 2. c. 4. | The European Coal and Steel Community Act 1955. | The whole Act. |

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SCHEDULES

Section 60(1).

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

1897 c. 38.

The Public Health (Scotland) Act 1897

1. There shall be inserted at the end of section 28 the words, "Nothing in this section shall detract from any duty imposed or power conferred by the Sewerage (Scotland) Act 1968".

2. There shall be inserted at the beginning of section 116 the words "Subject to the provisions of Part II of the Sewerage (Scotland) Act 1968".

1947 c. 43.

The Local Government (Scotland) Act 1947

3. In Schedule 6, item 11, for the words "Section 139 of the Public Health (Scotland) Act 1897" there shall be substituted the words "The Sewerage (Scotland) Act 1968".

1960 c. 34.

The Radioactive Substances Act 1960

4. There shall be inserted at the end of Part II of Schedule 1 the words "17. The Sewerage (Scotland) Act 1968".

Section 60(2).

SCHEDULE 2

ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|-------------------------|--|--|
| 39 & 40 Vict. c. 75. | The Rivers Pollution Prevention Act 1876. | The whole Act. |
| 55 & 56 Vict. c. 55. | The Burgh Police (Scotland) Act 1892. | In section 107, the word "sewers". In section 111, the words "and for cleansing the sewers and drains". Sections 214 to 222, 224, 225 and 227. In section 228, the words "No building shall be erected over any sewer belonging to the commissioners", the words "and so as not to interfere or communicate with any sewers belonging to the commissioners", the words "any building be erected", and the words "erecting such building". Sections 229 to 232. In section 233, the words from "guilty of" to "besides being". Sections 234 to 237 and section 242. In section 243 the words "drain or" wherever they occur, and the words from "and all branch drains" onwards. |

| Chapter | Short Title | Extent of Repeal |
|--------------------------------------|--|--|
| 55 & 56 Vict. c. 55— <i>cont.</i> | The Burgh Police (Scotland) Act 1892— <i>cont.</i> | <p>In section 250, the words “ and with power to make such drain if none such already exist ”, the words from “ the sanction ” to “ street; and ”, the words “ with the expense of restoring the street, so far as interfered with ”, and the words from “ with such ” to “ may fix ”.</p> <p>In section 329, the words from “ the special ” to “ sewers ”, the words “ rate or ”, and the word “ rate ”.</p> <p>In sections 330 and 331, the word “ rate ”.</p> <p>In section 332, the word “ rate ” where first occurring.</p> <p>Sections 361, 362 and 364.</p> <p>In section 366, the words “ special sewer rate, general sewer rate, and ”.</p> <p>In section 367, the words “ rates or ” wherever they occur.</p> <p>In section 368, the words “ special sewer rate, general sewer rate, and ”, the words “ rates and ”, and the words “ rated or ” and “ rates or ” wherever they occur.</p> <p>In section 369, the words “ rates or ” wherever they occur.</p> <p>Schedule VI so far as it relates to general sewer rate and special sewer rate.</p> |
| 60 & 61 Vict. c. 38. | The Public Health (Scotland) Act 1897. | <p>Sections 101 to 112, 114 and 115.</p> <p>In section 116, the words from “ or to use ” onwards.</p> <p>Sections 117, 119, 120, 122 and 139.</p> |
| 1 Edw. 7. c. 24. | The Burgh Sewerage, Drainage and Water Supply (Scotland) Act 1901. | The whole Act. |
| 3 Edw. 7. c. 33. | The Burgh Police (Scotland) Act 1903. | <p>Section 25.</p> <p>In section 98(6), the words “ sewers, drains ”.</p> |
| 10 & 11 Geo. 6. c. 43. | The Local Government (Scotland) Act 1947. | <p>Part VII, so far as relating to the formation, operation and dissolution of special drainage districts.</p> <p>Section 225(1) so far as relating to the special district sewer rate.</p> |
| 8 & 9 Eliz. 2. c. 34. | The Radioactive Substances Act 1960. | <p>In Part II of Schedule 1, paragraph 10, in paragraph 11 the reference to section 222, and in paragraph 13 the reference to section 120.</p> |



International Organisations Act 1968

1968 CHAPTER 48

An Act to make new provision (in substitution for the International Organisations (Immunities and Privileges) Act 1950 and the European Coal and Steel Community Act 1955) as to privileges, immunities and facilities to be accorded in respect of certain international organisations and in respect of persons connected with such organisations and other persons; and for purposes connected with the matters aforesaid. [26th July 1968]

BE IT ENACTED by the Queen's most Excellent Majesty, by an 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) This section shall apply to any organisation declared by Order in Council to be an organisation of which—

(a) the United Kingdom, or Her Majesty's Government in the United Kingdom, and

(b) one or more foreign sovereign Powers, or the Government or Governments of one or more such Powers,

are members.

Organisations of which United Kingdom is a member.

(2) Subject to subsection (6) of this section, Her Majesty may by Order in Council made under this subsection specify an organisation to which this section applies and make any one or more of the following provisions in respect of the organisation so specified (in the following provisions of this section referred to as "the organisation"), that is to say—

(a) confer on the organisation the legal capacities of a body corporate ;

(b) provide that the organisation shall, to such extent as may be specified in the Order, have the privileges and immunities set out in Part I of Schedule 1 to this Act ;

- (c) confer the privileges and immunities set out in Part II of Schedule 1 to this Act, to such extent as may be specified in the Order, on persons of any such class as is mentioned in the next following subsection ;
- (d) confer the privileges and immunities set out in Part III of Schedule 1 to this Act, to such extent as may be specified in the Order, on such classes of officers and servants of the organisation (not being classes mentioned in the next following subsection) as may be so specified.

(3) The classes of persons referred to in subsection (2)(c) of this section are—

- (a) persons who (whether they represent Governments or not) are representatives to the organisation or representatives on, or members of, any organ, committee or other subordinate body of the organisation (including any sub-committee or other subordinate body of a subordinate body of the organisation) ;
- (b) such number of officers of the organisation as may be specified in the Order, being the holders (whether permanent, temporary or acting) of such high offices in the organisation as may be so specified ; and
- (c) persons employed by or serving under the organisation as experts or as persons engaged on missions for the organisation.

(4) Where an Order in Council is made under subsection (2) of this section, the provisions of Part IV of Schedule 1 to this Act shall have effect by virtue of that Order (in those provisions, as they so have effect, referred to as “the relevant Order”), except in so far as that Order otherwise provides.

(5) Where an Order in Council is made under subsection (2) of this section, then for the purpose of giving effect to any agreement made in that behalf between the United Kingdom or Her Majesty’s Government in the United Kingdom and the organisation Her Majesty may by the same or any subsequent Order in Council make either or both of the following provisions, that is to say—

- (a) confer the exemptions set out in paragraph 13 of Schedule 1 to this Act, to such extent as may be specified in the Order, in respect of officers and servants of the organisation of any class specified in the Order in accordance with subsection (2)(d) of this section and in respect of members of the family of any such officer or servant who form part of his household ;

(b) confer the exemptions set out in Part V of that Schedule in respect of—

(i) members of the staff of the organisation recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent, and

(ii) members of the family of any such member of the staff of the organisation who form part of his household.

(6) Any Order in Council made under subsection (2) or subsection (5) of this section shall be so framed as to secure—

(a) that the privileges and immunities conferred by the Order are not greater in extent than those which, at the time when the Order takes effect, are required to be conferred in accordance with any agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is then a party (whether made with one or more other foreign sovereign Powers or Governments or made with one or more organisations such as are mentioned in subsection (1) of this section), and

(b) that no privilege or immunity is conferred on any person as the representative of the United Kingdom, or of Her Majesty's Government in the United Kingdom, or as a member of the staff of such a representative.

2.—(1) Where an Order in Council under section 1(2) of this Act is made in respect of an organisation which is a specialised agency of the United Nations having its headquarters or principal office in the United Kingdom, then for the purpose of giving effect to any agreement between the United Kingdom or Her Majesty's Government in the United Kingdom and that organisation Her Majesty may by the same or any other Order in Council confer the exemptions, privileges and reliefs specified in the next following subsection, to such extent as may be specified in the Order, on officers of the organisation who are recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent.

Specialised agencies of United Nations.

(2) The exemptions, privileges and reliefs referred to in the preceding subsection are—

(a) the like exemption or relief from income tax, capital gains tax and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent, and

(b) the exemptions, privileges and reliefs specified in paragraphs 10 to 12 of Schedule 1 to this Act.

(3) Where by virtue of subsection (1) of this section any of the exemptions, privileges and reliefs referred to in subsection (2)(b) of this section are conferred on persons as being officers of the organisation, Her Majesty may by the same or any other Order in Council confer the like exemptions, privileges and reliefs on persons who are members of the families of those persons and form part of their households.

(4) The powers conferred by the preceding provisions of this section shall be exercisable in addition to any power exercisable by virtue of subsection (2) or subsection (5) of section 1 of this Act; and any exercise of the powers conferred by those provisions shall have effect without prejudice to the operation of subsection (4) of that section.

(5) Subsection (6) of section 1 of this Act shall have effect in relation to the preceding provisions of this section as it has effect in relation to subsections (2) and (5) of that section.

(6) In this section "specialised agency" has the meaning assigned to it by Article 57 of the Charter of the United Nations.

Commission
of the
European
Communities.

3.—(1) In respect of the Commission of the European Communities (in this section referred to as "the Commission"), and in respect of the Council of Association between Her Majesty's Government in the United Kingdom and the Commission (in this section referred to as "the Council of Association"), Her Majesty may by Order in Council make any such provision as could be made under subsection (2) or subsection (5) of section 1 of this Act if—

- (a) the Commission and the Council of Association were organisations to which that section applies, and
- (b) the reference in subsection (5) of that section to the purpose of giving effect to an agreement, and paragraph (a) of subsection (6) of that section, were omitted.

(2) Where an Order in Council is made under subsection (1) of this section in respect of the Commission or the Council of Association, the provisions of Part IV of Schedule 1 to this Act shall, except in so far as that Order otherwise provides, have effect by virtue of that Order (in those provisions, as they so have effect, referred to as "the relevant Order") as if the Commission or the Council of Association, as the case may be, were an organisation to which section 1 of this Act applies.

(3) Without prejudice to subsection (2) of this section, where an Order in Council is made under subsection (1) of this section

Her Majesty may by the same or any other Order in Council confer—

- (a) the like exemption or relief from taxes and rates as, in accordance with Article 34 of the 1961 Convention Articles, is accorded to a diplomatic agent, and
- (b) the exemptions, privileges and reliefs specified in paragraphs 10 to 12 of Schedule 1 to this Act,

to such extent as may be specified in the Order, on officers of the Commission or of the Council of Association who are recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent; and, where the exemptions, privileges and reliefs referred to in paragraph (b) of this subsection are so conferred on any such officers, Her Majesty may by the same or any other Order in Council confer the like exemptions, privileges and reliefs on persons who are members of the families of those officers and form part of their households.

(4) Any Order in Council under this section may, to such extent as the Order may provide, be made so as to have effect as from 6th July 1967 or any later date specified in the Order.

4. Where an organisation other than the Commission of the European Communities, of which two or more foreign sovereign Powers, or the Governments of two or more such Powers, are members but of which neither the United Kingdom nor Her Majesty's Government in the United Kingdom is a member, maintains or proposes to maintain an establishment in the United Kingdom, then for the purpose of giving effect to any agreement made in that behalf between the United Kingdom or Her Majesty's Government in the United Kingdom and that organisation, Her Majesty may by Order in Council specifying the organisation make either or both of the following provisions in respect of the organisation, that is to say—

Other organisations of which United Kingdom is not a member.

- (a) confer on the organisation the legal capacities of a body corporate, and
- (b) provide that the organisation shall, to such extent as may be specified in the Order, be entitled to the like exemption or relief from taxes on income and capital gains as is accorded to a foreign sovereign Power.

5.—(1) Her Majesty may by Order in Council confer on any class of persons to whom this section applies such privileges, immunities and facilities as in the opinion of Her Majesty in Council are or will be required for giving effect—

International judicial and other proceedings

- (a) to any agreement to which, at the time when the Order takes effect, the United Kingdom or Her Majesty's Gov-

ernment in the United Kingdom is or will be a party,
or

(b) to any resolution of the General Assembly of the United Nations.

(2) This section applies to any persons who are for the time being—

(a) judges or members of any international tribunal, or persons exercising or performing, or appointed (whether permanently or temporarily) to exercise or perform, any jurisdiction or functions of such a tribunal ;

(b) registrars or other officers of any international tribunal ;

(c) parties to any proceedings before any international tribunal ;

(d) agents, advisers or advocates (by whatever name called) for any such parties ;

(e) witnesses in, or assessors for the purposes of, any proceedings before any international tribunal.

(3) For the purposes of this section any petition, complaint or other communication which, with a view to action to be taken by or before an international tribunal,—

(a) is made to the tribunal, or

(b) is made to a person through whom, in accordance with the constitution, rules or practice of the tribunal, such a communication can be received by the tribunal,

shall be deemed to be proceedings before the tribunal, and the person making any such communication shall be deemed to be a party to such proceedings.

(4) Without prejudice to subsection (3) of this section, any reference in this section to a party to proceedings before an international tribunal shall be construed as including a reference to—

(a) any person who, for the purposes of any such proceedings, acts as next friend, guardian or other representative (by whatever name called) of a party to the proceedings, and

(b) any person who (not being a person to whom this section applies apart from this paragraph) is entitled or permitted, in accordance with the constitution, rules or practice of an international tribunal, to participate in proceedings before the tribunal by way of advising or assisting the tribunal in the proceedings.

(5) In this section "international tribunal" means any court (including the International Court of Justice), tribunal, commission or other body which, in pursuance of any such agreement or resolution as is mentioned in subsection (1) of this section,—

- (a) exercises, or is appointed (whether permanently or temporarily) for the purpose of exercising, any jurisdiction, or
- (b) performs, or is appointed (whether permanently or temporarily) for the purpose of performing, any functions of a judicial nature or by way of arbitration, conciliation or inquiry,

and includes any individual who, in pursuance of any such agreement or resolution, exercises or performs, or is appointed (whether permanently or temporarily) for the purpose of exercising or performing, any jurisdiction or any such functions.

6.—(1) This section applies to any conference which is, or is to be, held in the United Kingdom and is, or is to be, attended by representatives—

Representatives at international conferences in United Kingdom.

- (a) of the United Kingdom, or of Her Majesty's Government in the United Kingdom, and
- (b) of one or more foreign sovereign Powers, or the Government or Governments of one or more such Powers.

(2) Her Majesty may by Order in Council specify one or more classes of persons who are, or are to be, representatives of a foreign sovereign Power, or of the Government of such a Power, at a conference to which this section applies, and confer on persons of the class or classes in question, to such extent as may be specified in the Order, the privileges and immunities set out in Part II of Schedule 1 to this Act.

(3) Where an Order in Council is made under subsection (2) of this section in relation to a particular conference, then, except in so far as that Order otherwise provides, the provisions of paragraphs 19 to 22 of Schedule 1 to this Act shall have effect in relation to members of the official staffs of persons of a class specified in the Order in accordance with that subsection as if in paragraph 19 of that Schedule "representative" were defined as a person of a class so specified in the Order.

7. So far as may be necessary for the purpose of giving effect to the International Telecommunication Convention done at Montreux on 12th November 1965 or any subsequent treaty or agreement whereby that Convention is amended or superseded, priority shall, wherever practicable, be given to messages from,

Priority of telecommunications.

and to replies to messages from, any of the following, that is to say—

- (a) the Secretary General of the United Nations ;
- (b) the heads of principal organs of the United Nations ;
and
- (c) the International Court of Justice.

Evidence.

8. If in any proceedings a question arises whether a person is or is not entitled to any privilege or immunity by virtue of this Act or any Order in Council made thereunder, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

Financial provisions.

9. Any amount refunded under any arrangements made in accordance with any provisions of Schedule 1 to this Act relating to refund of customs duty or of purchase tax—

- (a) if the arrangements were made by the Secretary of State, shall be paid out of moneys provided by Parliament, or
- (b) if the arrangements were made by the Commissioners of Customs and Excise, shall be paid out of the moneys standing to the credit of the General Account of those Commissioners.

Orders in Council.

10.—(1) No recommendation shall be made to Her Majesty in Council to make an Order under any provision (other than section 6) of this Act unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(2) Any Order in Council made under section 6 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by any provision of this Act to make an Order in Council shall include power to revoke or vary the Order by a subsequent Order in Council made under that provision.

Interpretation.

11.—(1) In this Act “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964, and “the International Court of Justice” means the court set up by that name under the Charter of the United Nations.

1964 c. 81.

(2) Expressions used in this Act to which a meaning is assigned by Article 1 of the 1961 Convention Articles, and

other expressions which are used both in this Act and in those Articles, shall, except in so far as the context otherwise requires, be construed as having the same meanings in this Act as in those Articles.

(3) For the purpose of giving effect to any arrangements made in that behalf between Her Majesty's Government in the United Kingdom and any organisation, premises which are not premises of the organisation but are recognised by that Government as being temporarily occupied by the organisation for its official purposes shall, in respect of such period as may be determined in accordance with the arrangements, be treated for the purposes of this Act as if they were premises of the organisation.

(4) Except in so far as the context otherwise requires, any reference in this Act to an enactment is a reference to that enactment as amended or extended by or under any other enactment.

12.—(1) In the Civil Aviation (Eurocontrol) Act 1962, in section 2(2), for the words "the Schedule to the International Organisations (Immunities and Privileges) Act 1950" there shall be substituted the words "Schedule 1 to the International Organisations Act 1968".

Consequential amendments, repeals and transitional provisions.
1962 c. 8.
1950 c. 14.
1968 c. 18.

(2) In the Consular Relations Act 1968, at the end of section 1(3) there shall be inserted the words "or the International Organisations Act 1968".

(3) References in any enactment to the powers conferred by the International Organisations (Immunities and Privileges) Act 1950 shall be construed as including references to the powers conferred by this Act.

(4) Subject to the following provisions of this section, the enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(5) Any Order in Council which has been made, or has effect as if made, under an enactment repealed by subsection (4) of this section and is in force immediately before the passing of this Act shall continue to have effect notwithstanding the repeal of that enactment and, while any such Order in Council continues to have effect in relation to an organisation,—

- (a) the enactment in question shall continue to have effect in relation to that organisation as if that enactment had not been repealed, and
- (b) section 8 of this Act shall have effect as if in that section any reference to this Act or an Order in Council made thereunder included a reference to that enactment or that Order in Council.

(6) Any such Order in Council as is mentioned in subsection (5) of this section—

- 1950 c. 14. (a) if made, or having effect as if made, under section 1 of the International Organisations (Immunities and Privileges) Act 1950, may be revoked or varied as if it had been made under section 1 of this Act ;
- (b) if made, or having effect as if made, under section 3 of that Act, may be revoked or varied as if it had been made under section 5 of this Act.

1955 c. 4
(4 & 5 Eliz. 2). (7) The repeal of the European Coal and Steel Community Act 1955 by virtue of subsection (4) of this section shall not take effect before the earliest date on which an Order in Council is made under section 3 of this Act, and, if the first Order in Council made under that section is made so as to take effect on a date after that on which it is made, that repeal shall not take effect until the date on which that Order takes effect.

Short title **13.** This Act may be cited as the International Organisations Act 1968.

SCHEDULES

SCHEDULE 1

Sections 1, 2, 3, 6.

PRIVILEGES AND IMMUNITIES

PART I

Privileges and immunities of the organisation

1. Immunity from suit and legal process.

2. The like inviolability of official archives and premises of the organisation as, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission.

3.—(1) Exemption or relief from taxes, other than customs duties and taxes on the importation of goods.

(2) The like relief from rates as in accordance with Article 23 of the 1961 Convention Articles is accorded in respect of the premises of a diplomatic mission.

4. Exemption from customs duties and taxes on the importation of goods imported by or on behalf of the organisation for its official use in the United Kingdom, or on the importation of any publications of the organisation imported by it or on its behalf, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

5. Exemption from prohibitions and restrictions on importation or exportation in the case of goods imported or exported by the organisation for its official use and in the case of any publications of the organisation imported or exported by it.

6. Relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom and used for the official purposes of the organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements. 1952 c. 44.

7. Relief, under arrangements made by the Secretary of State, by way of refund of purchase tax paid on any goods which are used for the official purposes of the organisation, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

PART II

Privileges and immunities of representatives, members of subordinate bodies, high officers, experts, and persons on missions

8. For the purpose of conferring on any person any such exemption, privilege or relief as is mentioned in any of the following paragraphs of this Part of this Schedule, any reference in that paragraph to the

SCH. 1 representative or officer shall be construed as a reference to that person.

9. The like immunity from suit and legal process, the like inviolability of residence, and the like exemption or relief from taxes and rates, other than customs duties and taxes on the importation of goods, as are accorded to or in respect of the head of a diplomatic mission.

10. The like exemption from customs duties and taxes on the importation of articles imported for the personal use of the representative or officer or of members of his family forming part of his household, including articles intended for his establishment, as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

11. The like exemption and privileges in respect of the personal baggage of the representative or officer as in accordance with paragraph 2 of Article 36 of those Articles are accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 10 of this Schedule.

12. Relief, under arrangements made either by the Secretary of State or by the Commissioners of Customs and Excise, by way of refund of customs duty paid on any hydrocarbon oils (within the meaning of the Customs and Excise Act 1952) which are bought in the United Kingdom by or on behalf of the representative or officer, such relief to be subject to compliance with such conditions as may be imposed in accordance with the arrangements.

1952 c. 44.

13. Exemptions whereby, for the purposes of the National Insurance Acts 1965 to 1967, the National Insurance (Industrial Injuries) Acts 1965 to 1967, any enactment for the time being in force amending any of those Acts, and any enactment of the Parliament of Northern Ireland corresponding to any of those Acts or to any enactment amending any of those Acts,—

- (a) services rendered for the organisation by the representative or officer shall be deemed to be excepted from any class of employment which is insurable employment, or in respect of which contributions are required to be paid, but
- (b) no person shall be rendered liable to pay any contribution which he would not be required to pay if those services were not deemed to be so excepted.

PART III

Privileges and immunities of other officers and servants

14. Immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties.

15. Exemption from income tax in respect of emoluments received as an officer or servant of the organisation.

16. The like exemption from customs duties and taxes on the importation of articles which— **SCH. 1**

- (a) at or about the time when an officer or servant of the organisation first enters the United Kingdom as such an officer or servant are imported for his personal use or that of members of his family forming part of his household, including articles intended for his establishment, and
- (b) are articles which were in his ownership or possession or that of such a member of his family, or which he or such a member of his family was under contract to purchase, immediately before he so entered the United Kingdom,

as in accordance with paragraph 1 of Article 36 of the 1961 Convention Articles is accorded to a diplomatic agent.

17. Exemption from customs duties and taxes on the importation of any motor vehicle imported by way of replacement of a motor vehicle in respect of which the conditions specified in sub-paragraphs (a) and (b) of paragraph 16 of this Schedule were fulfilled, such exemption to be subject to compliance with such conditions as the Commissioners of Customs and Excise may prescribe for the protection of the Revenue.

18. The like exemption and privileges in respect of the personal baggage of an officer or servant of the organisation as in accordance with paragraph 2 of Article 36 of the 1961 Convention Articles are accorded to a diplomatic agent, as if in that paragraph the reference to paragraph 1 of that Article were a reference to paragraph 16 of this Schedule.

PART IV

Privileges and immunities of official staffs and of families of representatives, high officers and official staffs

19. In this Part of this Schedule—

- (a) “representative” means a person who is such a representative to the organisation specified in the relevant Order or such a representative on, or member of, an organ, committee or other subordinate body of that organisation as is mentioned in section 1(3)(a) of this Act;
- (b) “member of the official staff” means a person who accompanies a representative as part of his official staff in his capacity as a representative.

20. A member of the official staff who is recognised by Her Majesty's Government in the United Kingdom as holding a rank equivalent to that of a diplomatic agent shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, the representative whom he accompanies is entitled to them.

21.—(1) Subject to sub-paragraph (2) of this paragraph, a member of the official staff who is not so recognised, and who is employed in the administrative or technical service of the representative whom he accompanies, shall be entitled to the privileges and

SCH. 1 immunities set out in paragraphs 9 and 13 of this Schedule to the like extent as, by virtue of the relevant Order, that representative is entitled to them.

(2) Such a member of the official staff shall not by virtue of the preceding sub-paragraph be entitled to immunity from any civil proceedings in respect of any cause of action arising otherwise than in the course of his official duties.

(3) Such a member of the official staff shall also be entitled to the exemption set out in paragraph 16 of this Schedule as if he were an officer of the organisation specified in the relevant Order.

22. A member of the official staff who is employed in the domestic service of the representative whom he accompanies shall be entitled to the following privileges and immunities, that is to say—

(a) immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties, and

(b) the exemptions set out in paragraph 13 of this Schedule, to the like extent as, by virtue of the relevant Order, that representative is entitled to them, and shall be entitled to exemption from taxes on his emoluments in respect of that employment to the like extent as, by virtue of the relevant Order, that representative is entitled to exemption from taxes on his emoluments as a representative.

23.—(1) Persons who are members of the family of a representative and form part of his household shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, that representative is entitled to them.

(2) Persons who are members of the family and form part of the household of an officer of the organisation specified in the relevant Order, where that officer is the holder (whether permanent, temporary or acting) of an office specified in that Order in accordance with section 1(3)(b) of this Act, shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of the relevant Order, that officer is entitled to them.

(3) Persons who are members of the family and form part of the household of such a member of the official staff as is mentioned in paragraph 20 of this Schedule shall be entitled to the privileges and immunities set out in Part II of this Schedule to the like extent as, by virtue of that paragraph, that member of the official staff is entitled to them.

(4) Persons who are members of the family and form part of the household of such a member of the official staff as is mentioned in paragraph 21 of this Schedule shall be entitled to the privileges and immunities set out in paragraphs 9 and 13 of this Schedule to the like extent as, by virtue of paragraph 21 of this Schedule, that member of the official staff is entitled to them.

PART V

SCH. 1

Estate duty and capital gains tax on death

24. In the event of the death of the person in respect of whom the exemptions under this paragraph are conferred, exemptions from—

- (a) estate duty leviable on his death under the law of any part of the United Kingdom in respect of movable property which is in the United Kingdom immediately before his death and whose presence in the United Kingdom at that time is due solely to his presence there in the capacity by reference to which the exemptions are conferred, and
- (b) capital gains tax on chargeable gains which, by virtue of the operation of section 24 of the Finance Act 1965 in 1965 c. 25. relation to any such movable property, are included in the gains accruing to that person in the year of assessment in which he died.

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| 4 Eliz. 2. c. 2. | The German Conventions Act 1955. | Section 1(2). |
| 4 Eliz. 2. c. 4. | The European Coal and Steel Community Act 1955. | The whole Act. |

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